

103D CONGRESS
1ST SESSION

H. R. 21

To amend title XVIII of the Social Security Act to make miscellaneous and technical changes to the medicare program.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. ROSTENKOWSKI (for himself and Mr. STARK) introduced the following bill; which was referred jointly to the Committees on Ways and Means and Energy and Commerce

A BILL

To amend title XVIII of the Social Security Act to make miscellaneous and technical changes to the medicare program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Miscellaneous and
5 Technical Medicare Amendments of 1993”.

6 **SEC. 2. REFERENCES IN ACT.**

7 (a) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-
8 cept as otherwise specifically provided, whenever in this
9 Act, an amendment is expressed in terms of an amend-

1 ment to or repeal of a section or other provision, the ref-
 2 erence shall be considered to be made to that section or
 3 other provision of the Social Security Act.

4 (b) REFERENCES TO OBRA.—In this Act, the terms
 5 “OBRA-1986”, “OBRA-1987”, “OBRA-1989”, and
 6 “OBRA-1990” refer to the Omnibus Budget Reconcili-
 7 ation Act of 1986 (Public Law 99-509), the Omnibus
 8 Budget Reconciliation Act of 1987 (Public Law 100-203),
 9 the Omnibus Budget Reconciliation Act of 1989 (Public
 10 Law 101-239), and the Omnibus Budget Reconciliation
 11 Act of 1990 (Public Law 101-508), respectively.

12 (c) TABLE OF CONTENTS.—The table of contents of
 13 this Act is as follows:

Sec. 1. Short title.

Sec. 2. References in Act.

TITLE I—PROVISIONS RELATING TO PART A

Sec. 101. Transition for hospital outlier thresholds.

Sec. 102. Essential access community hospital (EACH) amendments.

Sec. 103. Wage index provisions.

Sec. 104. Reauthorization of rural transition grant program.

Sec. 105. Regional referral centers.

Sec. 106. Medicare-dependent, small rural hospitals.

Sec. 107. Hemophilia pass-through.

Sec. 108. State hospital payment programs.

Sec. 109. Psychology services in hospitals.

Sec. 110. Graduate medical education provided in a hospital-owned community health center.

Sec. 111. Uniformed services treatment facilities.

Sec. 112. Requiring hospitals and nursing facilities to notify residents of availability of hospice benefit.

Sec. 113. Skilled nursing facility wage index.

Sec. 114. DRG payment window technical clarification; miscellaneous and technical corrections.

Sec. 115. Extension of rural hospital demonstration.

TITLE II—PROVISIONS RELATING TO PART B

Subtitle A—Physicians' Services

- Sec. 201. Separate payment for interpretation of electrocardiograms.
- Sec. 202. Payments for new physicians and practitioners.
- Sec. 203. Basing payments for anesthesia services on actual time.
- Sec. 204. Geographic adjustment factors for medicare physicians' services.
- Sec. 205. Extra-billing limits.
- Sec. 206. Relative values for pediatric services.
- Sec. 207. Antigens under physician fee schedule.
- Sec. 208. Administration of claims relating to physicians' services.
- Sec. 209. Miscellaneous and technical corrections.

Subtitle B—Ambulatory Surgical Services

- Sec. 211. Eye or eye and ear hospitals.
- Sec. 212. Extension of cap on payments for intraocular lenses.
- Sec. 213. Miscellaneous and technical corrections.

Subtitle C—Durable Medical Equipment

- Sec. 221. Certification of suppliers.
- Sec. 222. Prohibition against carrier forum shopping.
- Sec. 223. Restrictions on certain marketing and sales activities.
- Sec. 224. Kickback clarification.
- Sec. 225. Beneficiary liability for noncovered services.
- Sec. 226. Adjustments for inherent reasonableness.
- Sec. 227. Payment for parenteral and enteral nutrients, supplies, and equipment during 1993.
- Sec. 228. Treatment of nebulizers and aspirators.
- Sec. 229. Payment for ostomy supplies, tracheostomy supplies, urologicals, and surgical dressings.
- Sec. 230. Payments for TENS devices.
- Sec. 231. Miscellaneous and technical corrections.

Subtitle D—Other Provisions

- Sec. 241. Payment for medically directed certified registered nurse anesthetist services.
- Sec. 242. Extension of Alzheimer's disease demonstration.
- Sec. 243. Part B late enrollment penalty.
- Sec. 244. Oral cancer drugs.
- Sec. 245. Speech-language pathologists and audiologists.
- Sec. 246. Extension of municipal health service demonstration projects.
- Sec. 247. Treatment of certain Indian health programs and facilities as Federally-qualified health centers.
- Sec. 248. Extension of influenza vaccination demonstration.
- Sec. 249. Miscellaneous and technical corrections.

TITLE III—PROVISIONS RELATING TO PARTS A AND B

- Sec. 301. Provisions relating to physician ownership and referral.
- Sec. 302. Direct graduate medical education.
- Sec. 303. End stage renal disease.
- Sec. 304. Medicare secondary payer.
- Sec. 305. Improved outreach for qualified medicare beneficiaries.
- Sec. 306. Social health maintenance organizations.
- Sec. 307. Peer review organizations.
- Sec. 308. Hospice information to home health beneficiaries.
- Sec. 309. Interest payments.

- Sec. 310. Clarification of judicial review rights.
 Sec. 311. Adjustments to discretionary spending limits.
 Sec. 312. Health maintenance organizations.
 Sec. 313. Treatment of certain State health care programs.
 Sec. 314. Miscellaneous and technical corrections.

**TITLE IV—PROVISIONS RELATING TO MEDICARE SUPPLEMENTAL
 INSURANCE POLICIES**

Sec. 401. Standards for medicare supplemental insurance policies.

**1 TITLE I—PROVISIONS RELATING
 2 TO PART A**

**3 SEC. 101. TRANSITION FOR HOSPITAL OUTLIER THRESH-
 4 OLDS.**

5 The Secretary of Health and Human Services, under
 6 section 1886 of the Social Security Act, shall use the day
 7 outlier methodology in effect for fiscal year 1992 for pay-
 8 ment for discharges occurring on or after April 1, 1993,
 9 and before September 30, 1993. For payment for dis-
 10 charges occurring during fiscal year 1994, the Secretary
 11 shall use the day outlier methodology in effect for the first
 12 6 months of fiscal year 1993.

**13 SEC. 102. ESSENTIAL ACCESS COMMUNITY HOSPITAL
 14 (EACH) AMENDMENTS.**

15 (a) INCREASING NUMBER OF PARTICIPATING
 16 STATES.—Section 1820(a)(1) (42 U.S.C. 1395i-4(a)(1))
 17 is amended by striking “7” and inserting “9”.

18 (b) TREATMENT OF INPATIENT HOSPITAL SERVICES
 19 PROVIDED IN RURAL PRIMARY CARE HOSPITALS.—

(1) IN GENERAL.—Section 1820(f)(1)(F) (42 U.S.C. 1395i-4(f)(1)(F)) is amended to read as follows:

“(F) subject to paragraph (4), provides not more than 6 inpatient beds (meeting such conditions as the Secretary may establish) for providing inpatient care to patients requiring stabilization before discharge or transfer to a hospital, except that the facility may not provide any inpatient hospital services—

“(i) to any patient whose attending physician does not certify that the patient may reasonably be expected to be discharged or transferred to a hospital within 72 hours of admission to the facility; or

“(ii) consisting of surgery or any other service requiring the use of general anesthesia (other than surgical procedures specified by the Secretary under section 1833(i)(1)(A)), unless the attending physician certifies that the risk associated with transferring the patient to a hospital for such services outweighs the benefits of transferring the patient to a hospital for such services.”.

(2) LIMITATION ON AVERAGE LENGTH OF STAY.—Section 1820(f) (42 U.S.C. 1395i-4(f)) is amended by adding at the end the following new paragraph:

“(4) LIMITATION ON AVERAGE LENGTH OF INPATIENT STAYS.—The Secretary may terminate a designation of a rural primary care hospital under paragraph (1) if the Secretary finds that the average length of stay for inpatients at the facility during the previous year in which the designation was in effect exceeded 72 hours. In determining the compliance of a facility with the requirement of the previous sentence, there shall not be taken into account periods of stay of inpatients in excess of 72 hours to the extent such periods exceed 72 hours because transfer to a hospital is precluded because of inclement weather or other emergency conditions.”.

(3) CONFORMING AMENDMENT.—Section 1814(a)(8) (42 U.S.C. 1395f(a)(8)) is amended by striking “such services” and all that follows and inserting “the individual may reasonably be expected to be discharged or transferred to a hospital within 72 hours after admission to the rural primary care hospital.”.

1 (4) GAO REPORTS.—Not later than 2 years
2 after the date of the enactment of this Act, the
3 Comptroller General shall submit reports to Con-
4 gress on—

5 (A) the application of the requirements
6 under section 1820(f) of the Social Security Act
7 (as amended by this subsection) that rural pri-
8 mary care hospitals provide inpatient care only
9 to those individuals whose attending physicians
10 certify may reasonably be expected to be dis-
11 charged within 72 hours after admission and
12 maintain an average length of inpatient stay
13 during a year that does not exceed 72 hours;
14 and

15 (B) the extent to which such requirements
16 have resulted in such hospitals providing inpa-
17 tient care beyond their capabilities or have lim-
18 ited the ability of such hospitals to provide
19 needed services.

20 (c) DESIGNATION OF HOSPITALS.—

21 (1) PERMITTING DESIGNATION OF HOSPITALS
22 LOCATED IN URBAN AREAS.—

23 (A) IN GENERAL.—Section 1820 (42
24 U.S.C. 1395i-4) is amended—

1 (i) by striking paragraph (1) of sub-
 2 section (e) and redesignating paragraphs
 3 (2) through (6) as paragraphs (1) through
 4 (5); and

5 (ii) in subsection (e)(1)(A) (as redes-
 6 ignated by subparagraph (A))—

7 (I) by striking “is located” and
 8 inserting “except in the case of a hos-
 9 pital located in an urban area, is lo-
 10 cated”,

11 (II) by striking “, (ii)” and in-
 12 serting “or (ii)”,

13 (III) by striking “or (iii)” and all
 14 that follows through “section,” and

15 (IV) in subsection (i)(1)(B), by
 16 striking “paragraph (3)” and insert-
 17 ing “paragraph (2)”.

18 (B) NO CHANGE IN MEDICARE PROSPEC-
 19 TIVE PAYMENT.—Section 1886(d)(5)(D) (42
 20 U.S.C. 1395ww(d)(5)(D)) is amended—

21 (i) in clause (iii)(III), by inserting “lo-
 22 cated in a rural area and” after “that is”,
 23 and

(ii) in clause (v), by inserting “located in a rural area and” after “in the case of a hospital”.

(2) PERMITTING HOSPITALS LOCATED IN ADJOINING STATES TO PARTICIPATE IN STATE PROGRAM.—

(A) IN GENERAL.—Section 1820 (42 U.S.C. 1395i-4) is amended—

(i) by redesignating subsection (k) as subsection (l); and

(ii) by inserting after subsection (j) the following new subsection:

“(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN PARTICIPATING STATES.—Notwithstanding any other provision of this section—

“(1) for purposes of including a hospital or facility as a member institution of a rural health network, a State may designate a hospital or facility that is not located in the State as an essential access community hospital or a rural primary care hospital if the hospital or facility is located in an adjoining State and is otherwise eligible for designation as such a hospital;

“(2) the Secretary may designate a hospital or facility that is not located in a State receiving a

1 grant under subsection (a)(1) as an essential access
 2 community hospital or a rural primary care hospital
 3 if the hospital or facility is a member institution of
 4 a rural health network of a State receiving a grant
 5 under such subsection; and

6 “(3) a hospital or facility designated pursuant
 7 to this subsection shall be eligible to receive a grant
 8 under subsection (a)(2).”.

9 (B) CONFORMING AMENDMENTS.—(i) Sec-
 10 tion 1820(e)(1) (42 U.S.C. 1395i–4(c)(1)) is
 11 amended by striking “paragraph (3)” and in-
 12 serting “paragraph (3) or subsection (k)”.

13 (ii) Paragraphs (1)(A) and (2)(A) of sec-
 14 tion 1820(i) (42 U.S.C. 1395i–4(i)) are each
 15 amended—

16 (I) in clause (i), by striking “(a)(1)”
 17 and inserting “(a)(1) (except as provided
 18 in subsection (k))”, and

19 (II) in clause (ii), by striking “sub-
 20 paragraph (B)” and inserting “subpara-
 21 graph (B) or subsection (k)”.

22 (d) SKILLED NURSING SERVICES IN RURAL PRIMARY
 23 CARE HOSPITALS.—Section 1820(f)(3) (42 U.S.C. 1395i–
 24 4(f)(3)) is amended by striking “because the facility” and
 25 all that follows and inserting the following: “because, at

1 the time the facility applies to the State for designation
 2 as a rural primary care hospital, there is in effect an
 3 agreement between the facility and the Secretary under
 4 section 1883 under which the facility's inpatient hospital
 5 facilities are used for the furnishing of extended care serv-
 6 ices, except that the number of beds used for the furnish-
 7 ing of such services may not exceed the total number of
 8 licensed inpatient beds at the time the facility applies to
 9 the State for such designation (minus the number of inpa-
 10 tient beds used for providing inpatient care pursuant to
 11 paragraph (1)(F)). For purposes of the previous sentence,
 12 the number of beds of the facility used for the furnishing
 13 of extended care services shall not include any beds of a
 14 unit of the facility that is licensed as a distinct-part skilled
 15 nursing facility at the time the facility applies to the State
 16 for designation as a rural primary care hospital.”.

17 (e) PAYMENT FOR OUTPATIENT RURAL PRIMARY
 18 CARE HOSPITAL SERVICES.—Section 1834(g)(1) (42
 19 U.S.C. 1395m(g)(1)) is amended by adding at the end the
 20 following:

21 “The amount of payment shall be determined under
 22 either method without regard to the amount of the
 23 customary or other charge.”.

24 (f) CLARIFICATION OF PHYSICIAN STAFFING RE-
 25 QUIREMENT FOR RURAL PRIMARY CARE HOSPITALS.—

1 Section 1820(f)(1)(H) (42 U.S.C. 1395i-4(f)(1)(H)) is
 2 amended by striking the period and inserting the follow-
 3 ing: “, except that in determining whether a facility meets
 4 the requirements of this subparagraph, subparagraphs (E)
 5 and (F) of that paragraph shall be applied as if any ref-
 6 erence to a ‘physician’ is a reference to a physician as de-
 7 fined in section 1861(r)(1).”.

8 (g) TECHNICAL AMENDMENTS RELATING TO PART
 9 A DEDUCTIBLE, COINSURANCE, AND SPELL OF ILL-
 10 NESS.—(1) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1))
 11 is amended—

12 (A) by striking “inpatient hospital services” the
 13 first place it appears and inserting “inpatient hos-
 14 pital services or inpatient rural primary care hos-
 15 pital services”;

16 (B) by striking “inpatient hospital services” the
 17 second place it appears and inserting “such serv-
 18 ices”; and

19 (C) by striking “and inpatient rural primary
 20 care hospital services”.

21 (2) Sections 1813(a) and 1813(b)(3)(A) (42 U.S.C.
 22 1395e(a), 1395e(b)(3)(A)) are each amended by striking
 23 “inpatient hospital services” each place it appears and in-
 24 serting “inpatient hospital services or inpatient rural pri-
 25 mary care hospital services”.

1 (3) Section 1813(b)(3)(B) (42 U.S.C.
2 1395e(b)(3)(B)) is amended by striking “inpatient hos-
3 pital services” and inserting “inpatient hospital services,
4 inpatient rural primary care hospital services”.

5 (4) Section 1861(a) (42 U.S.C. 1395x(a)) is
6 amended—

7 (A) in paragraph (1), by striking “inpatient
8 hospital services” and inserting “inpatient hospital
9 services, inpatient rural primary care hospital serv-
10 ices”; and

11 (B) in paragraph (2), by striking “hospital”
12 and inserting “hospital or rural primary care hos-
13 pital”.

14 (h) AUTHORIZATION OF APPROPRIATIONS.—Section
15 1820(k) (42 U.S.C. 1395i–4(k)) is amended by striking
16 “1990, 1991, and 1992” and inserting “1990 through
17 1995”.

18 (i) EFFECTIVE DATE.—The amendments made by
19 this section shall take effect on the date of the enactment
20 of this Act.

21 **SEC. 103. WAGE INDEX PROVISIONS.**

22 (a) WAGE INDEX HOLD HARMLESS PROTECTION.—

23 (1) IN GENERAL.—Section 1886(d)(8)(C)(iii)
24 (42 U.S.C. 1395ww(d)(8)(C)(iii)) is amended by
25 adding at the end the following new sentence: “In

1 the case of an urban area that has a wage index
 2 below the wage index for rural areas in the State in
 3 which it is located, or that is located in a State that
 4 is composed of a single urban area, such an applica-
 5 tion or decision may not result in a reduction of that
 6 urban area's wage index."

7 (2) NO STANDARDIZED AMOUNT ADJUST-
 8 MENT.—The Secretary of Health and Human Serv-
 9 ices shall not revise the fiscal year 1993 standard-
 10 ized amounts pursuant to subsections (d)(3)(B) and
 11 (d)(8)(D) of section 1886 of the Social Security Act
 12 to account for the amendment made by paragraph
 13 (1).

14 (3) EFFECTIVE DATE.—The amendment made
 15 by paragraph (1) shall apply to discharges occurring
 16 on or after the expiration of the 30-day period that
 17 begins on the date of the enactment of this Act.

18 (b) UPDATING STANDARDS FOR TREATING RURAL
 19 COUNTIES AS URBAN COUNTIES BASED ON RATES OF
 20 COMMUTATION.—

21 (1) IN GENERAL.—Section 1886(d)(8)(B) (42
 22 U.S.C. 1395ww(d)(8)(B)) is amended—

23 (A) by striking "standards" each place it
 24 appears and inserting "standards most recently
 25 used", and

(B) by striking “published in the Federal Register on January 3, 1980”.

(2) **HOLD HARMLESS FOR COUNTIES CURRENTLY TREATED AS URBAN.**—Any hospital that is treated as being located in an urban metropolitan statistical area pursuant to section 1886(d)(8)(B) of the Social Security Act as of the date of the enactment of this Act shall continue to be so treated notwithstanding the amendments made by paragraph (1).

(3) **EFFECTIVE DATE.**—The amendments made by paragraph (1) shall be effective on October 1, 1993.

(c) **USE OF OCCUPATIONAL MIX IN GUIDELINES.**—

(1) **IN GENERAL.**—Section 1886(d)(10)(D)(i)(I) (42 U.S.C. 1395ww(d)(10)(D)(i)(I)) is amended by inserting “(to the extent the Secretary determines appropriate)” after “taking into account”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall take effect as if included in the enactment of OBRA-1989.

SEC. 104. REAUTHORIZATION OF RURAL TRANSITION GRANT PROGRAM.

Section 4005(e)(9) of OBRA-1987 is amended—

1 (1) by striking "1989 and" and inserting
2 "1989,"; and

3 (2) by striking "1992" and inserting "1992
4 and \$30,000,000 for each of fiscal years 1993
5 through 1997".

6 **SEC. 105. REGIONAL REFERRAL CENTERS.**

7 (a) **EXTENSION THROUGH FISCAL YEAR 1994.**—Sec-
8 tion 6003(d) of OBRA-1989 (42 U.S.C. 1395ww note)
9 is amended by striking "October 1, 1992" and inserting
10 "October 1, 1994".

11 (b) **PERMITTING HOSPITALS TO DECLINE RECLASSI-**
12 **FICATION.**—If any hospital fails to qualify as a rural refer-
13 ral center under section 1886(d)(5)(C) of the Social Secu-
14 rity Act as a result of a decision by the Medicare Geo-
15 graphic Classification Review Board under section
16 1886(d)(10) of such Act to reclassify the hospital as being
17 located in an urban area for fiscal year 1994, the Sec-
18 retary of Health and Human Services shall—

19 (1) notify such hospital of such failure to
20 qualify,

21 (2) provide an opportunity for such hospital to
22 decline such reclassification, and

23 (3) if the hospital declines such reclassification,
24 administer the Social Security Act (other than sec-

tion 1886(d)(8)(D)) for fiscal year 1994 as if the decision by the Review Board had not occurred.

SEC. 106. MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(5)(G) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(1) by amending clause (i) to read as follows:

“(i) In the case of a subsection (d) hospital which is a medicare-dependent, small rural hospital, payment under paragraph (1)(A) for discharges occurring before October 1, 1994, shall be equal to the sum of the amount determined under clause (ii) and the amount determined under paragraph (1)(A)(iii).”;

(2) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv); and

(3) by inserting after clause (i) the following new clause:

“(ii) The amount determined under this clause is

“(I) for discharges occurring during the first 3 12-month cost reporting periods that begin on or after April 1, 1990, the amount by which the hospital’s target amount for the cost reporting period (as defined in subsection (b)(3)(D)) exceeds the amount determined under paragraph (1)(A)(iii); and

1 “(II) for discharges occurring during any subse-
2 quent cost reporting period (or portion thereof), 50
3 percent of the amount by which the hospital’s target
4 amount for the cost reporting period (as defined in
5 subsection (b)(3)(D)) exceeds the amount deter-
6 mined under paragraph (1)(A)(iii).”.

7 (b) PERMITTING HOSPITALS TO DECLINE RECLASSI-
8 FICATION.—If any hospital fails to qualify as a medicare-
9 dependent, small rural hospital under section
10 1886(d)(5)(G)(i) of the Social Security Act as a result of
11 a decision by the Medicare Geographic Classification Re-
12 view Board under section 1886(d)(10) of such Act to re-
13 classify the hospital as being located in an urban area for
14 fiscal year 1994, the Secretary of Health and Human
15 Services shall—

16 (1) notify such hospital of such failure to qual-
17 ify,

18 (2) provide an opportunity for such hospital to
19 decline such reclassification, and

20 (3) if the hospital declines such reclassification,
21 administer the Social Security Act (other than sec-
22 tion 1886(d)(8)(D)) for fiscal year 1994 as if the
23 decision by the Review Board had not occurred.

1 **SEC. 107. HEMOPHILIA PASS-THROUGH.**

2 (a) IN GENERAL.—Section 6011(d) of OBRA-1989
3 is amended by striking “2 years after the date of enact-
4 ment of this Act” and inserting “September 30, 1994”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 subsection (a) shall take effect as if included in the enact-
7 ment of OBRA-1989.

8 **SEC. 108. STATE HOSPITAL PAYMENT PROGRAMS.**

9 (a) RECOUPMENT FROM NEW JERSEY HOSPITALS.—

10 (1) MORATORIUM ON RECOUPMENT.—Prior to
11 April 1, 1993, the Secretary of Health and Human
12 Services (in this section referred to as the “Sec-
13 retary”) may not recoup from or otherwise reduce
14 payments to hospitals in the State of New Jersey be-
15 cause of alleged overpayments to such hospitals
16 under title XVIII of the Social Security Act which
17 occurred during the period of the statewide hospital
18 reimbursement demonstration project conducted in
19 that State between January 1, 1985, and December
20 31, 1988, under a waiver granted under section
21 1886(c) of the Social Security Act.

22 (2) PROVISION OF PAYMENT DATA.—The Sec-
23 retary may not recoup from or otherwise reduce pay-
24 ments to hospitals in the State of New Jersey be-
25 cause of alleged overpayments described in para-
26 graph (1) until the Secretary provides the State and

1 hospitals located in the State with all relevant data
2 used by the Secretary to determine the amount of
3 such alleged overpayments, including (but not lim-
4 ited to) the cost reports submitted by the hospitals
5 to the Secretary during the period of the statewide
6 hospital reimbursement demonstration project de-
7 scribed in such paragraph and the methodology used
8 by the Secretary to determine payments to such hos-
9 pitals under title XVIII of the Social Security Act
10 during such period.

11 (b) CLARIFICATION OF PAYMENTS UNDER A MEDI-
12 CARE-APPROVED STATE HOSPITAL REIMBURSEMENT
13 SYSTEM.—In the case of a State hospital reimbursement
14 system that meets the requirements of section 1814(b)(3)
15 of the Social Security Act, no other provision in title
16 XVIII of such Act, no provision of title XIX of such Act,
17 no provision of the Employee Retirement Income Security
18 Act of 1974, and no provision of chapter 81 or 89 of title
19 5, United States Code, shall be construed as preventing
20 the system from providing that payment for services cov-
21 ered under the system be made on the basis of rates pro-
22 vided for under the system.

23 **SEC. 109. PSYCHOLOGY SERVICES IN HOSPITALS.**

24 Section 1861(e)(4) (42 U.S.C. 1395x(e)(4)) is
25 amended by striking “physician;” and inserting “physi-

1 cian, except that a patient receiving qualified psychologist
 2 services (as defined in subsection (ii)) may be under the
 3 care of a clinical psychologist with respect to such services
 4 to the extent permitted under State law;”.

5 **SEC. 110. GRADUATE MEDICAL EDUCATION PROVIDED IN A**
 6 **HOSPITAL-OWNED COMMUNITY HEALTH CEN-**
 7 **TER.**

8 Section 1886(d)(5)(B)(iv) (42 U.S.C.
 9 1395ww(d)(5)(B)(iv)) is amended by inserting after “the
 10 hospital” the following: “or providing services at any en-
 11 tity receiving a grant under section 330 of the Public
 12 Health Service Act that is under the ownership or control
 13 of the hospital (if the hospital incurs all, or substantially
 14 all, of the costs of the services furnished to the hospital
 15 by such interns and residents)”.

16 **SEC. 111. UNIFORMED SERVICES TREATMENT FACILITIES.**

17 (a) COVERAGE OF SERVICES PROVIDED IN CERTAIN
 18 UNIFORMED SERVICES TREATMENT FACILITIES.—

19 (1) IN GENERAL.—Subject to paragraph (2),
 20 the Secretary of Health and Human Services may
 21 not take any action to recover amounts that were
 22 paid by the United States under title XVIII of the
 23 Social Security Act to the facilities described in
 24 paragraph (3) (or to other individuals or entities
 25 with whom such facilities had entered into agree-

1 ments to provide services under such title) for serv-
2 ices provided during the period beginning October 1,
3 1986, and ending December 31, 1989.

4 (2) EXCEPTION.—The Secretary may take a
5 recoupment action for the sole purpose of securing
6 obligation of the funds provided to the Uniformed
7 Services Treatment Facilities program pursuant to
8 the Department of Defense Appropriations Act,
9 1993 to fulfill such an action.

10 (3) FACILITIES DESCRIBED.—The facilities re-
11 ferred to in paragraph (1) are the hospitals de-
12 scribed in section 248c of title 42, United States
13 Code, that are located in Boston, Massachusetts;
14 Baltimore, Maryland; and Seattle, Washington.

15 (b) STUDY OF JOINT MEDICAL FACILITIES.—

16 (1) STUDY.—The Secretary of Health and
17 Human Services, in consultation with the Secretary
18 of Defense and the Secretary of Veterans Affairs,
19 shall conduct a study of the feasibility and desirabil-
20 ity of establishing joint medical facilities among the
21 Department of Defense, the Department of Veterans
22 Affairs, and other public and private entities, and
23 shall include in such study an analysis of the need
24 to make changes in the medicare and medicaid pro-
25 grams (including facility certification standards

under such programs) in order to facilitate the establishment of such joint medical facilities.

(2) REPORT.—Not later than October 1, 1993, the Secretary of Health and Human Services shall submit a report to Congress on the study conducted under paragraph (1).

SEC. 112. REQUIRING HOSPITALS AND NURSING FACILITIES TO NOTIFY RESIDENTS OF AVAILABILITY OF HOSPICE BENEFIT.

(a) HOSPITALS.—Section 1861(ee)(2)(D) (42 U.S.C. 1395x(ee)(2)(D)) is amended by inserting “, including hospice services,” after “post-hospital services”.

(b) NURSING FACILITIES.—Section 1819(c)(1)(B) (42 U.S.C. 1395i-3(c)(1)(B)) is amended—

(1) by striking “and” at the end of clause (ii);

(2) by striking the period at the end of clause

(iii) and inserting “; and”; and

(3) by inserting after clause (iii) the following new clause:

“(iv) inform each resident who is entitled to benefits under this title, orally and in writing at the time of admission to the facility, of the entitlement of individuals to hospice care under section 1812(a)(4) (unless there is no hospice program providing

1 hospice care for which payment may be
2 made under this title within the geographic
3 area of the facility and it is not the com-
4 mon practice of the facility to refer pa-
5 tients to hospice programs located outside
6 such geographic area).”.

7 (c) **EFFECTIVE DATE.**—The amendments made by
8 subsection (a) shall apply to services furnished on or after
9 the first day of the first month beginning more than one
10 year after the date of the enactment of this Act.

11 **SEC. 113. SKILLED NURSING FACILITY WAGE INDEX.**

12 (a) **IN GENERAL.**—Within 2 years of the date of the
13 enactment of this Act, the Secretary of Health and
14 Human Services shall begin to collect data on employee
15 compensation and paid hours of employment in skilled
16 nursing facilities for the purpose of constructing a skilled
17 nursing facility wage index adjustment to the routine serv-
18 ice cost limits required under section 1888(a)(4) of the
19 Social Security Act.

20 (b) **PROPAC REPORT.**—The Prospective Payment
21 Assessment Commission shall, by March 1, 1994, study
22 and report to the Congress on the impact of applying rou-
23 tine cost limits for skilled nursing facilities on a regional
24 basis.

1 **SEC. 114. DRG PAYMENT WINDOW TECHNICAL CLARIFICA-**
 2 **TION; MISCELLANEOUS AND TECHNICAL**
 3 **CORRECTIONS.**

4 (a) **CLARIFICATION OF DRG PAYMENT WINDOW EX-**
 5 **PANSION.**—The first sentence of section 1886(a)(4) (42
 6 U.S.C. 1395ww(a)(4)) is further amended by striking
 7 “and includes” and inserting “and (in the case of a sub-
 8 section (d) hospital) includes”.

9 (b) **TECHNICAL CORRECTION RELATING TO RESI-**
 10 **DENT ASSESSMENT IN NURSING HOMES.**—Section
 11 1819(b)(3)(C)(i)(I) (42 U.S.C. 1395i-3(b)(3)(C)(i)(I)) is
 12 amended by striking “not later than” before “14 days”.

13 (c) **CLERICAL CORRECTIONS.**—(1) Section
 14 1814(i)(1)(C)(i) (42 U.S.C. 1395f(i)(1)(C)(i)) is amended
 15 by striking “1990,,” and inserting “1990,”.

16 (2) Section 1816(f)(2)(A)(ii) (42 U.S.C.
 17 1396h(f)(2)(A)(ii)) is amended by striking “such agency”
 18 and inserting “such agency’s”.

19 (3) Section 1886(d)(1)(A)(iii) (42 U.S.C.
 20 1395ww(d)(1)(A)(iii)) is amended by striking “, the sum
 21 of” and inserting “is equal to the sum of”.

22 **SEC. 115. EXTENSION OF RURAL HOSPITAL DEMONSTRA-**
 23 **TION.**

24 Section 4008(i)(1) of OBRA-1990 is amended by
 25 adding at the end the following new sentence: “The Sec-

1 retary shall continue any such demonstration project until
2 at least December 31, 1995.”.

3 **TITLE II—PROVISIONS**
4 **RELATING TO PART B**
5 **Subtitle A—Physicians’ Services**

6 **SEC. 201. SEPARATE PAYMENT FOR INTERPRETATION OF**
7 **ELECTROCARDIOGRAMS.**

8 (a) IN GENERAL.—Paragraph (3) of section 1848(b)
9 (42 U.S.C. 1395w-4(b)) is amended to read as follows:

10 “(3) TREATMENT OF INTERPRETATION OF
11 ELECTROCARDIOGRAMS.—The Secretary—

12 “(A) shall make separate payment under
13 this section for the interpretation of electro-
14 cardiograms performed or ordered to be per-
15 formed as part of or in conjunction with a visit
16 to or a consultation with a physician, and

17 “(B) shall adjust the relative values estab-
18 lished for visits and consultations under sub-
19 section (c) so as not to include relative value
20 units for interpretations of electrocardiograms
21 in the relative value for visits and consulta-
22 tions.”.

23 (b) ASSURING BUDGET NEUTRALITY.—Section
24 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)) is amended by add-
25 ing at the end the following new subparagraph:

1 “(E) BUDGET NEUTRALITY ADJUST-
2 MENTS.—The Secretary—

3 “(i) shall reduce the relative values
4 for all services (other than anesthesia serv-
5 ices) established under this paragraph
6 (and, in the case of anesthesia services, the
7 conversion factor established by the Sec-
8 retary for such services) by such percent-
9 age as the Secretary determines to be nec-
10 essary so that, beginning in 1996, the
11 amendment made by section 201(a) of the
12 Miscellaneous and Technical Medicare
13 Amendments of 1993 would not result in
14 expenditures under this section that exceed
15 the amount of such expenditures that
16 would have been made if such amendment
17 had not been made, and

18 “(ii) shall reduce the amounts deter-
19 mined under subsection (a)(2)(B)(i)(I) by
20 such percentage as the Secretary deter-
21 mines to be required to assure that, taking
22 into account the reductions made under
23 clause (i), the amendment made by section
24 201(a) of the Miscellaneous and Technical
25 Medicare Amendments of 1993 would not

1 result in expenditures under this section in
 2 1993 that exceed the amount of such ex-
 3 penditures that would have been made if
 4 such amendment had not been made.”.

5 (c) CONFORMING AMENDMENTS.—Section 1848 (42
 6 U.S.C. 1395w-4) is amended—

7 (1) in subsection (a)(2)(B)(i)(I), by inserting
 8 “and as adjusted under subsection (c)(2)(E)(ii)”
 9 after “for 1993”;

10 (2) in subsection (c)(2)(A)(i), by adding at the
 11 end the following: “Such relative values are subject
 12 to adjustment under subparagraph (E)(i).”; and

13 (3) in subsection (i)(1)(B), by adding at the
 14 end “including adjustments under subsection
 15 (c)(2)(E).”.

16 (d) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply to services furnished on or after
 18 first day of the fourth month beginning after the date of
 19 the enactment of this Act.

20 **SEC. 202. PAYMENTS FOR NEW PHYSICIANS AND PRACTI-**
 21 **TIONERS.**

22 (a) EQUAL TREATMENT OF NEW PHYSICIANS AND
 23 PRACTITIONERS.—(1) Section 1848(a) (42 U.S.C.
 24 1395w-4(a)) is amended by striking paragraph (4).

1 (2) Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is
2 amended by striking subparagraph (F).

3 (b) BUDGET NEUTRALITY ADJUSTMENT.—Notwith-
4 standing any other provision of law, the Secretary of
5 Health and Human Services shall reduce the following val-
6 ues and amounts for 1993 (to be applied for that year
7 and subsequent years) by such uniform percentage as the
8 Secretary determines to be required to assure that the
9 amendments made by subsection (a) will not result in ex-
10 penditures under part B of title XVIII of the Social Secu-
11 rity Act in 1993 that exceed the amount of such expendi-
12 tures that would have been made if such amendments had
13 not been made:

14 (1) The relative values established under section
15 1848(c) of such Act for services (other than anesthe-
16 sia services) and, in the case of anesthesia services,
17 the conversion factor established under section 1848
18 of such Act for such services.

19 (2) The amounts determined under section
20 1848(a)(2)(B)(i)(I) of such Act.

21 (3) The prevailing charges or fee schedule
22 amounts to be applied under such part for services
23 of a health care practitioner (as defined in section
24 1842(b)(4)(F)(ii)(I) of such Act, as in effect before
25 the date of the enactment of this Act).

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w-4), as amended by section 201(c), is amended—

(1) in subsection (a)(2)(B)(i)(I), by inserting “and section 202(b) of the Miscellaneous and Technical Medicare Amendments of 1993” after “(c)(2)(E)(ii)” after “for 1993”;

(2) in subsection (c)(2)(A)(i), by inserting “and section 202(b) of the Miscellaneous and Technical Medicare Amendments of 1993” after “under subparagraph (E)(i)”; and

(3) in subsection (i)(1)(B), by inserting “and section 202(b) of the Miscellaneous and Technical Medicare Amendments of 1993” after “under subsection (c)(2)(E)”.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after the first day of the fourth month beginning after the date of the enactment of this Act.

SEC. 203. BASING PAYMENTS FOR ANESTHESIA SERVICES ON ACTUAL TIME.

(a) PHYSICIANS’ SERVICES.—Section 1848(b)(2)(B) (42 U.S.C. 1395w-4(b)(2)(B)) is amended by adding at the end the following: “For anesthesia services furnished on or after January 1, 1993, the Secretary may not mod-

1 if the methodology in effect as of January 1, 1992, for
 2 determining the amount of time that may be billed for
 3 such services under this section.”.

4 (b) SERVICES OF CERTIFIED REGISTERED NURSE
 5 ANESTHETISTS.—Section 1833(l)(1)(B) (42 U.S.C.
 6 1395l(l)(1)(B)) is amended by adding at the end the fol-
 7 lowing: “For anesthesia services furnished on or after
 8 January 1, 1993, the Secretary may not modify the meth-
 9 odology in effect as of January 1, 1992, for determining
 10 the amount of time that may be billed for such services
 11 under this section.”.

12 **SEC. 204. GEOGRAPHIC ADJUSTMENT FACTORS FOR MEDI-**
 13 **CARE PHYSICIANS' SERVICES.**

14 (a) REQUIRING CONSULTATION WITH REPRESENTA-
 15 TIVES OF PHYSICIANS IN REVIEWING GEOGRAPHIC AD-
 16 JUSTMENT FACTORS.—Section 1848(e)(1)(C) (42 U.S.C.
 17 1395w-4(e)(1)(C)) is amended by striking “shall review”
 18 and inserting “shall, in consultation with appropriate rep-
 19 resentatives of physicians, review”.

20 (b) USE OF MOST RECENT DATA IN GEOGRAPHIC
 21 ADJUSTMENT.—Section 1848(e)(1) (42 U.S.C. 1395w-
 22 4(e)(1)) is amended by adding at the end the following
 23 new subparagraph:

24 “(D) USE OF RECENT DATA.—In estab-
 25 lishing indices and index values under this

1 paragraph, the Secretary shall use the most re-
2 cent data available relating to practice ex-
3 penses, malpractice expenses, and physician
4 work effort in different fee schedule areas.”.

5 (c) DEADLINE FOR INITIAL REVIEW AND REVI-
6 SION.—The Secretary of Health and Human Services
7 shall first review and revise geographic adjustment factors
8 under section 1848(e)(1)(C) of the Social Security Act by
9 not later than January 1, 1995.

10 (d) REPORT ON REVIEW PROCESS.—Not later than
11 1 year after the date of the enactment of this Act, the
12 Secretary of Health and Human Services shall study and
13 report to the Committee on Finance of the Senate and
14 the Committee on Ways and Means and the Committee
15 on Energy and Commerce of the House of Representatives
16 on—

17 (1) the data necessary to review and revise the
18 indices established under section 1848(e)(1)(A) of
19 the Social Security Act, including—

20 (A) the shares allocated to physicians’
21 work effort, practice expenses (other than mal-
22 practice expenses), and malpractice expenses;

23 (B) the weights assigned to the input com-
24 ponents of such shares; and

1 (C) the index values assigned to such com-
2 ponents;

3 (2) any limitations on the availability of data
4 necessary to review and revise such indices at least
5 every three years;

6 (3) ways of addressing such limitations, with
7 particular attention to the development of alternative
8 data sources for input components for which current
9 index values are based on data collected less fre-
10 quently than every three years; and

11 (4) the costs of developing more accurate and
12 timely data.

13 **SEC. 205. EXTRA-BILLING LIMITS.**

14 (a) ENFORCEMENT AND UNIFORM APPLICATION.—

15 (1) ENFORCEMENT.—Paragraph (1) of section
16 1848(g) (42 U.S.C. 1395w-4(g)) is amended to read
17 as follows:

18 “(1) LIMITATION ON ACTUAL CHARGES.—

19 “(A) IN GENERAL.—In the case of a
20 nonparticipating physician or nonparticipating
21 supplier or other person (as defined in section
22 1842(i)(2)) who does not accept payment on an
23 assignment-related basis for a physician’s serv-
24 ice furnished with respect to an individual en-
25 rolled under this part, the following rules apply:

1 “(i) APPLICATION OF LIMITING
2 CHARGE.—No person may bill or collect an
3 actual charge for the service in excess of
4 the limiting charge described in paragraph
5 (2) for such service.

6 “(ii) NO LIABILITY FOR EXCESS
7 CHARGES.—No person is liable for pay-
8 ment of any amounts billed for the service
9 in excess of such limiting charge.

10 “(iii) CORRECTION OF EXCESS
11 CHARGES.—If such a physician, supplier,
12 or other person bills, but does not collect,
13 an actual charge for a service in violation
14 of clause (i), the physician, supplier, or
15 other person shall reduce on a timely basis
16 the actual charge billed for the service to
17 an amount not to exceed the limiting
18 charge for the service.

19 “(iv) REFUND OF EXCESS COLLEC-
20 TIONS.—If such a physician, supplier, or
21 other person collects an actual charge for
22 a service in violation of clause (i), the phy-
23 sician, supplier, or other person shall pro-
24 vide on a timely basis a refund to the indi-
25 vidual charged in the amount by which the

1 amount collected exceeded the limiting
2 charge for the service. The amount of such
3 a refund shall be reduced to the extent the
4 individual has an outstanding balance owed
5 by the individual to the physician.

6 “(B) SANCTIONS.—If a physician, supplier,
7 or other person—

8 “(i) knowingly and willfully bills or
9 collects for services in violation of subpara-
10 graph (A)(i) on a repeated basis,

11 “(ii) fails to comply with clause (iii)
12 or (iv) of subparagraph (A) on a timely
13 basis,

14 the Secretary may apply sanctions against the
15 physician, supplier, or other person in accord-
16 ance with paragraph (2) of section 1842(j). In
17 applying this subparagraph, paragraph (4) of
18 such section applies in the same manner as
19 such paragraph applies to such section and any
20 reference in such section to a physician is
21 deemed also to include a reference to a supplier
22 or other person under this subparagraph.

23 “(C) TIMELY BASIS.—For purposes of this
24 paragraph, a correction of a bill for an excess
25 charge or refund of an amount with respect to

a violation of subparagraph (A)(i) in the case of a service is considered to be provided 'on a timely basis', if the reduction or refund is made not later than 30 days after the date the physician, supplier, or other person is notified by the carrier under this part of such violation and of the requirements of subparagraph (A).".

(2) UNIFORM APPLICATION OF EXTRA-BILLING LIMITS TO PHYSICIANS' SERVICES.—

(A) IN GENERAL.—Section 1848(g)(2)(C) (42 U.S.C. 1395w-4(g)(2)(C)) is amended by inserting "or for nonparticipating suppliers or other persons" after "nonparticipating physicians".

(B) CONFORMING DEFINITION.—Section 1842(i)(2) (42 U.S.C. 1395u(i)(2)) is amended—

(i) by striking " , and the term" and inserting "; the term", and

(ii) by inserting before the period at the end the following: "; and the term 'nonparticipating supplier or other person' means a supplier or other person (excluding a provider of services) that is not a

1 participating physician or supplier (as de-
2 fined in subsection (h)(1))”.

3 (3) ADDITIONAL CONFORMING AMENDMENTS.—

4 Section 1848 (42 U.S.C. 1395w-4) is amended—

5 (A) in subsection (a)(3), by inserting “AND
6 SUPPLIERS” after “PHYSICIANS”, and by insert-
7 ing “or a nonparticipating supplier or other
8 person” after “nonparticipating physician” and
9 by adding at the end the following: “In the case
10 of physicians’ services (including services which
11 the Secretary excludes pursuant to subsection
12 (j)(3)) of a nonparticipating physician, supplier,
13 or other person for which payment is made
14 under this part on a basis other than the fee
15 schedule amount, the payment shall be based on
16 95 percent of the payment basis for such serv-
17 ices furnished by a participating physician, sup-
18 plier, or other person.”;

19 (B) in subsection (g)(1)(A), as amended by
20 subsection (a), in the matter before clause (i),
21 by inserting “(including services which the Sec-
22 retary excludes pursuant to subsection (j)(3))”
23 after “a physician’s service”;

24 (C) in subsection (g)(2)(D), by inserting
25 “(or, if payment under this part is made on a

basis other than the fee schedule under this section, 95 percent of the other payment basis)" after "subsection (a)";

(D) in subsection (g)(3)(B)—

(i) by inserting after the first sentence the following: "No person is liable for payment of any amounts billed for such a service in violation of the previous sentence.", and

(ii) in the last sentence, by striking "previous sentence" and inserting "first sentence";

(E) in subsection (h)—

(i) by inserting "or nonparticipating supplier or other person furnishing physicians' services (as defined in section 1848(j)(3))" after "physician" the first place it appears,

(ii) by inserting ", supplier, or other person" after "physician" the second place it appears, and

(iii) by inserting ", suppliers, and other persons" after "physicians" the second place it appears; and

1 (F) in subsection (j)(3), by inserting “, ex-
 2 cept for purposes of subsections (a)(3), (g), and
 3 (h)” after “tests and”.

4 (b) CLARIFICATION OF MANDATORY ASSIGNMENT
 5 RULES FOR CERTAIN PRACTITIONERS.—

6 (1) IN GENERAL.—Section 1842(b) (42 U.S.C.
 7 1395u(b)) is amended by adding at the end the fol-
 8 lowing new paragraph:

9 “(19)(A) Payment for any service furnished by a
 10 practitioner described in subparagraph (C) and for which
 11 payment may be made under this part on a reasonable
 12 charge or fee schedule basis may only be made under this
 13 part on an assignment-related basis.

14 “(B) A practitioner described in subparagraph (C) or
 15 other person may not bill (or collect any amount from)
 16 the individual or another person for any service described
 17 in subparagraph (A), except for deductible and coinsur-
 18 ance amounts applicable under this part. No person is lia-
 19 ble for payment of any amounts billed for such a service
 20 in violation of the previous sentence. If a practitioner or
 21 other person knowingly and willfully bills (or collects an
 22 amount) for such a service in violation of such sentence,
 23 the Secretary may apply sanctions against the practitioner
 24 or other person in the same manner as the Secretary may
 25 apply sanctions against a physician in accordance with

1 section 1842(j)(2) in the same manner as such section ap-
 2 plies with respect to a physician. Paragraph (4) of section
 3 1842(j) shall apply in this subparagraph in the same man-
 4 ner as such paragraph applies to such section.

5 “(C) A practitioner described in this subparagraph
 6 is any of the following:

7 “(i) A physician assistant, nurse practitioner, or
 8 clinical nurse specialist (as defined in section
 9 1861(aa)(5)).

10 “(ii) A certified registered nurse anesthetist (as
 11 defined in section 1861(bb)(2)).

12 “(iii) A certified nurse-midwife (as defined in
 13 section 1861(gg)(2)).

14 “(iv) A clinical social worker (as defined in sec-
 15 tion 1861(hh)(1)).

16 “(v) A clinical psychologist (as defined by the
 17 Secretary for purposes of section 1861(ii)).

18 “(D) For purposes of this paragraph, a service fur-
 19 nished by a practitioner described in subparagraph (C) in-
 20 cludes any services and supplies furnished as incident to
 21 the service as would otherwise be covered under this part
 22 if furnished by a physician or as incident to a physician’s
 23 service.”.

24 (2) CONFORMING AMENDMENTS.—

(A) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (l)(5), by striking subparagraph (B) of subsection (l)(5) and redesignating subparagraph (C) as subparagraph (B);

(ii) by striking subsection (p); and

(iii) in subsection (r), by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(B) Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by striking subparagraph (C).

(c) INFORMATION ON EXTRA-BILLING LIMITS.—

(1) PART OF EXPLANATION OF MEDICARE BENEFITS.—Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

(A) by striking “and” at the end of subparagraph (B),

(B) in subparagraph (C), by striking “shall include” and by striking the period at the end and inserting “, and”, and

(C) by adding at the end the following new subparagraph:

1 “(D) in the case of services for which the billed
2 amount exceeds the limiting charge imposed under
3 section 1848(g), information regarding such applica-
4 ble limiting charge (including information concern-
5 ing the right to a refund under section
6 1848(g)(1)(D)).”.

7 (2) DETERMINATIONS BY CARRIERS.—Subpara-
8 graph (G) of section 1842(b)(3) (42 U.S.C.
9 1395u(b)(3)) is amended to read as follows:

10 “(G) will, for a service that is furnished with
11 respect to an individual enrolled under this part,
12 that is not paid on an assignment-related basis, and
13 that is subject to a limiting charge under section
14 1848(g)—

15 “(i) determine, prior to making payment,
16 whether the amount billed for such service ex-
17 ceeds the limiting charge applicable under sec-
18 tion 1848(g)(2);

19 “(ii) notify the physician, supplier, or other
20 person periodically (but not less often than once
21 every 30 days) of determinations that amounts
22 billed exceeded such applicable limiting charges;
23 and

24 “(iii) provide for prompt response to in-
25 quiries of physicians, suppliers, and other per-

sons concerning the accuracy of such limiting charges for their services;”.

(d) REPORT ON CHARGES IN EXCESS OF LIMITING CHARGE.—Section 1848(g)(6)(B) (42 U.S.C. 1395w-4(g)(6)(B)) is amended by inserting “the extent to which actual charges exceed limiting charges, the number and types of services involved, and the average amount of excess charges and” after “report to the Congress”.

(e) MISCELLANEOUS AND TECHNICAL AMENDMENTS.—Section 1833 (42 U.S.C. 1395l) is amended—

(1) in subsection (a)(1), as amended by section 249(e)(2)—

(A) by striking “and” before “(O)”, and

(B) by inserting before the semicolon at the end the following: “, and (P) with respect to services described in clauses (i), (ii) and (iv) of section 1861(s)(2)(K), the amounts paid are subject to the provisions of section 1842(b)(12)”; and

(2) in subsection (h)(5)(D)—

(A) by striking “paragraphs (2) and (3)” and by inserting “paragraph (2)”, and

(B) by adding at the end the following: “Paragraph (4) of such section shall apply in

1 this subparagraph in the same manner as such
2 paragraph applies to such section.”.

3 (f) EFFECTIVE DATES.—

4 (1) ENFORCEMENT AND UNIFORM APPLICA-
5 TION; MISCELLANEOUS AND TECHNICAL AMEND-
6 MENTS.—The amendments made by subsections (a)
7 and (e) shall apply to services furnished on or after
8 the date of the enactment of this Act; except that
9 the amendments made by subsection (a) shall not
10 apply to services of a nonparticipating supplier or
11 other person furnished before the first day of the
12 fourth month beginning after the date of the enact-
13 ment of this Act.

14 (2) PRACTITIONERS.—The amendments made
15 by subsection (b) shall apply to services furnished on
16 or after the first day of the fourth month beginning
17 after the date of the enactment of this Act.

18 (3) EOMBS.—The amendments made by sub-
19 section (c)(1) shall apply to explanations of benefits
20 provided on or after the first day of the fourth
21 month beginning after the date of the enactment of
22 this Act.

23 (4) CARRIER DETERMINATIONS.—The amend-
24 ments made by subsection (c)(2) shall apply to con-

1 tracts as of the first day of the fourth month begin-
2 ning after the date of the enactment of this Act.

3 (5) REPORT.—The amendment made by sub-
4 section (d) shall apply to reports for years beginning
5 with 1994.

6 **SEC. 206. RELATIVE VALUES FOR PEDIATRIC SERVICES.**

7 (a) IN GENERAL.—The Secretary of Health and
8 Human Services shall fully develop, by not later than July
9 1, 1994, relative values for the full range of pediatric phy-
10 sicians' services which are consistent with the relative val-
11 ues developed for other physicians' services under section
12 1848(c) of the Social Security Act. In developing such val-
13 ues, the Secretary shall conduct such refinements as may
14 be necessary to produce appropriate estimates for such rel-
15 ative values.

16 (b) STUDY.—

17 (1) IN GENERAL.—The Secretary shall conduct
18 a study of the relative values for pediatric and other
19 services to determine whether there are significant
20 variations in the resources used in providing similar
21 services to different populations. In conducting such
22 study, the Secretary shall consult with appropriate
23 organizations representing pediatricians and other
24 physicians.

1 (2) REPORT.—Not later than July 1, 1994, the
 2 Secretary shall submit to Congress a report on the
 3 study conducted under paragraph (1). Such report
 4 shall include any appropriate recommendations re-
 5 garding needed changes in coding or other payment
 6 policies to ensure that payments for pediatric serv-
 7 ices appropriately reflect the resources required to
 8 provide these services.

9 **SEC. 207. ANTIGENS UNDER PHYSICIAN FEE SCHEDULE.**

10 (a) IN GENERAL.—Section 1848(j)(3) (42 U.S.C.
 11 1395w-4(j)(3)) is amended by inserting “(2)(G),” after
 12 “(2)(D),”.

13 (b) EFFECTIVE DATE.—The amendment made by
 14 subsection (a) shall apply to services furnished on or after
 15 January 1, 1994.

16 **SEC. 208. ADMINISTRATION OF CLAIMS RELATING TO PHY-**
 17 **SICIANS’ SERVICES.**

18 (a) LIMITATION ON CARRIER USER FEES.—Section
 19 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at
 20 the end the following new paragraph:

21 “(4) Neither a carrier nor the Secretary may impose
 22 a fee under this title—

23 “(A) for the filing of claims related to physi-
 24 cians’ services,

“(B) for an error in filing a claim relating to physicians’ services or for such a claim which is denied,

“(C) for any appeal under this title with respect to physicians’ services,

“(D) for applying for (or obtaining) a unique identifier under subsection (r), or

“(E) for responding to inquiries respecting physicians’ services or for providing information with respect to medical review of such services.”.

(b) CLARIFICATION OF PERMISSIBLE SUBSTITUTE BILLING ARRANGEMENTS.—

(1) IN GENERAL.—Clause (D) of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended to read as follows: “(D) payment may be made to a physician for physicians’ services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60

days; and (iv) the claim form submitted to the carrier for such services includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim meets the requirements of this clause for payment to the first physician".

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to services furnished on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 209. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) **OVERVALUED PROCEDURES (SECTION 4101 OF OBRA-1990).**—(1) Section 1842(b)(16)(B)(iii) (42 U.S.C. 1395u(b)(16)(B)(iii)) is amended—

(A) by striking “, simple and subcutaneous”,

(B) by striking “; small” and inserting “and small”,

(C) by striking “treatments;” the first place it appears and inserting “and”,

(D) by striking “lobectomy;”,

(E) by striking “enterectomy; colectomy; cholecystectomy;”,

(F) by striking “; transurerethral resection” and inserting “and resection”, and

1 (G) by striking “sacral laminectomy;”.

2 (2) Section 4101(b)(2) of OBRA-1990 is amended—

3 (A) in the matter before subparagraph (A), by
4 striking “1842(b)(16)” and inserting
5 “1842(b)(16)(B)”, and

6 (B) in subparagraph (B)—

7 (i) by striking “, simple and subcutane-
8 ous”,

9 (ii) by striking “(HCPCS codes 19160 and
10 19162)” and inserting “(HCPCS code 19160)”,
11 and

12 (iii) by striking all that follows “(HCPCS
13 codes 92250” and inserting “and 92260).”.

14 (b) RADIOLOGY SERVICES (SECTION 4102 OF
15 OBRA-1990).—(1) Section 1834(b)(4) (42 U.S.C.
16 1395m(b)(4)) is amended by redesignating subparagraphs
17 (E) and (F) as subparagraphs (F) and (G), respectively.

18 (2) Section 1834(b)(4)(D) (42 U.S.C.
19 1395m(b)(4)(D)) is amended—

20 (A) in the matter before clause (i), by striking
21 “shall be determined as follows:” and inserting
22 “shall, subject to clause (vii), be reduced to the ad-
23 justed conversion factor for the locality determined
24 as follows:”,

1 (B) in clause (iv), by striking “LOCAL ADJUST-
 2 MENT.—Subject to clause (vii), the conversion factor
 3 to be applied to” and inserting “ADJUSTED CONVER-
 4 SION FACTOR.—The adjusted conversion factor for”,

5 (C) in clause (vii), by striking “under this sub-
 6 paragraph”, and

7 (D) in clause (vii), by inserting “reduced under
 8 this subparagraph by” after “shall not be”.

9 (3) Section 4102(c)(2) of OBRA-1990 is amended
 10 by striking “radiology services” and all that follows and
 11 inserting “nuclear medicine services”.

12 (4) Section 4102(d) of OBRA-1990 is amended by
 13 striking “new paragraph” and inserting “new subpara-
 14 graph”.

15 (5) Section 1834(b)(4)(E) (42 U.S.C.
 16 1395m(b)(4)(E)) is amended by inserting “RULE FOR
 17 CERTAIN SCANNING SERVICES.—” after “(E)”.

18 (6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w-
 19 4(a)(2)(D)(iii)) is amended by striking “that are subject
 20 to section 6105(b) of the Omnibus Budget Reconciliation
 21 Act of 1989” and by striking “provided under such sec-
 22 tion” and inserting “provided under section 6105(b) of the
 23 Omnibus Budget Reconciliation Act of 1989”.

24 (c) ANESTHESIA SERVICES (SECTION 4103 OF
 25 OBRA-1990).—(1) Section 4103(a) of OBRA-1990 is

1 amended by striking "REDUCTION IN FEE SCHEDULE"
 2 and inserting "REDUCTION IN PREVAILING CHARGES".

3 (2) Section 1842(q)(1)(B) (42 U.S.C.
 4 1395u(q)(1)(B)) is amended—

5 (A) in the matter before clause (i), by striking
 6 "shall be determined as follows:" and inserting
 7 "shall, subject to clause (iv), be reduced to the ad-
 8 justed prevailing charge conversion factor for the lo-
 9 cality determined as follows:", and

10 (B) in clause (iii), by striking "Subject to
 11 clause (iv), the prevailing charge conversion factor to
 12 be applied in" and inserting "The adjusted prevail-
 13 ing charge conversion factor for".

14 (d) ASSISTANTS AT SURGERY (SECTION 4107 OF
 15 OBRA-1990).—(1) Section 4107(c) of OBRA-1990 is
 16 amended by inserting "(a)(1)" after "subsection".

17 (2) Section 4107(a)(2) of OBRA-1990 is amended
 18 by adding at the end the following: "In applying section
 19 1848(g)(2)(D) of the Social Security Act for services of
 20 an assistant-at-surgery furnished during 1991, the recog-
 21 nized payment amount shall not exceed the maximum
 22 amount specified under section 1848(i)(2)(A) of such Act
 23 (as applied under this paragraph in such year).".

24 (e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERV-
 25 ICES (SECTION 4108 OF OBRA-1990).—Section 1842(b)

1 (42 U.S.C. 1395u(b)) is amended by redesignating para-
 2 graph (18), as added by section 4108(a) of OBRA-1990,
 3 as paragraph (17) and, in such paragraph, by inserting
 4 “, tests specified in paragraph (14)(C)(i),” after “diag-
 5 nostic laboratory tests”.

6 (f) STATEWIDE FEE SCHEDULES (SECTION 4117 OF
 7 OBRA-1990).—Section 4117 of OBRA-1990 is
 8 amended—

9 (1) in subsection (a)—

10 (A) by striking “IN GENERAL.—”, and

11 (B) by striking “, if the” and all that fol-
 12 lows through “1991, ”; and

13 (2) by striking subsections (b), (c), and (d).

14 (g) STUDY OF AGGREGATION RULE FOR CLAIMS OF
 15 SIMILAR PHYSICIAN SERVICES (SECTION 4113 OF
 16 OBRA-1990).—Section 4113 of OBRA-1990 is
 17 amended—

18 (1) by inserting “of the Social Security Act”
 19 after “1869(b)(2)”; and

20 (2) by striking “December 31, 1992” and in-
 21 serting “December 31, 1993”.

22 (h) OTHER MISCELLANEOUS AND TECHNICAL
 23 AMENDMENTS.—(1) The heading of section 1834(f) (42
 24 U.S.C. 1395m(f)) is amended by striking “FISCAL YEAR”.

25 (2)(A) Section 4105(b) of OBRA-1990 is amended—

1 (i) in paragraph (2), by striking "amendments"
2 and inserting "amendment", and

3 (ii) in paragraph (3), by striking "amendments
4 made by paragraphs (1) and (2)" and inserting
5 "amendment made by paragraph (1)".

6 (B) Section 1848(f)(2)(C) (42 U.S.C. 1395w-
7 4(f)(2)(C)) is amended by inserting "PERFORMANCE
8 STANDARD RATES OF INCREASE FOR FISCAL YEAR 1991.—
9 " after "(C)".

10 (C) Section 4105(d) of OBRA-1990 is amended by
11 inserting "PUBLICATION OF PERFORMANCE STANDARD
12 RATES.—" after "(d)".

13 (3) Section 1842(b)(4)(F) (42 U.S.C.
14 1395u(b)(4)(F)) is amended—

15 (A) in clause (i), by striking "prevailing
16 charge" the first place it appears and inserting
17 "customary charge"; and

18 (B) in clause (ii)(III), by striking "second,
19 third, and fourth" and inserting "first, second, and
20 third".

21 (4) Section 1842(b)(4)(F)(ii)(I) (42 U.S.C.
22 1395u(b)(4)(F)(ii)(I)) is amended by striking "respiratory
23 therapist,".

1 (5) Section 4106(c) of OBRA-1990 is amended by
2 inserting "of the Social Security Act" after
3 "1848(d)(1)(B)".

4 (6) Section 4114 of OBRA-1990 is amended by
5 striking "patients" the second place it appears.

6 (7) Section 1848(e)(1)(C) (42 U.S.C. 1395w-
7 4(e)(1)(C)) is amended by inserting "date of the" after
8 "since the".

9 (8) Section 4118(f)(1)(D) of OBRA-1990 is amend-
10 ed by striking "is amended".

11 (9) Section 4118(f)(1)(N)(ii) of OBRA-1990 is
12 amended by striking "subsection (f)(5)(A)" and inserting
13 "subsection (f)(5)(A)".

14 (10) Section 1845(e) (42 U.S.C. 1395w-1(e)) is
15 amended---

16 (A) by striking paragraph (2); and

17 (B) by redesignating paragraphs (3), (4), and
18 (5) as paragraphs (2), (3), and (4).

19 (11) Section 4118(j)(2) of OBRA-1990 is amended
20 by striking "In section" and inserting "Section".

21 (12)(A) Section 1848(i)(3) (42 U.S.C. 1395w-
22 4(i)(3)) is amended by striking the space before the period
23 at the end.

24 (B) Section 1834(a)(10)(B) (42 U.S.C.
25 1395m(a)(10)(B)) is amended by striking "as such provi-

1 sions apply to physicians' services and physicians and a
2 reasonable charge under section 1842(b)".

3 (i) **EFFECTIVE DATE.**—The amendments made by
4 this section and the provisions of this section shall take
5 effect as if included in the enactment of OBRA-1990.

6 **Subtitle B—Ambulatory Surgical** 7 **Services**

8 **SEC. 211. EYE OR EYE AND EAR HOSPITALS.**

9 (a) **IN GENERAL.**—Section 1833(i) (42 U.S.C.
10 1395l(i)) is amended—

11 (1) in subparagraph (B)(ii)—

12 (A) by striking "the last sentence of this
13 clause" and inserting "paragraph (4)", and

14 (B) by striking the last sentence; and

15 (2) by inserting after paragraph (3) the follow-
16 ing new paragraph:

17 "(4)(A) In the case of a hospital that—

18 "(i) makes application to the Secretary and
19 demonstrates that it specializes in eye services or eye
20 and ear services (as determined by the Secretary),

21 "(ii) receives more than 30 percent of its total
22 revenues from outpatient services, and

23 "(iii) on October 1, 1987—

24 "(I) was an eye specialty hospital or an eye
25 and ear specialty hospital, or

- 1 “(II) was operated as an eye or eye and
2 ear unit (as defined in subparagraph (B)) of a
3 general acute care hospital which, on the date
4 of the application described in clause (i), oper-
5 ates less than 20 percent of the beds that the
6 hospital operated on October 1, 1987, and has
7 sold or otherwise disposed of a substantial por-
8 tion of the hospital’s other acute care oper-
9 ations,
- 10 the cost proportion and ASC proportion in effect under
11 subclauses (I) and (II) of paragraph (2)(B)(ii) for cost
12 reporting periods beginning in fiscal year 1988 shall re-
13 main in effect for cost reporting periods beginning on or
14 after October 1, 1988, and before January 1, 1995.
- 15 “(B) For purposes of this subparagraph (A)(iii)(II),
16 the term ‘eye or eye and ear unit’ means a physically sepa-
17 rate or distinct unit containing separate surgical suites de-
18 voted solely to eye or eye and ear services.”.
- 19 (b) EFFECTIVE DATE.—The amendments made by
20 subsection (a) shall apply to portions of cost reporting pe-
21 riods beginning on or after January 1, 1994.

1 SEC. 212. EXTENSION OF CAP ON PAYMENTS FOR INTRA-
2 OCULAR LENSES.

3 (a) IN GENERAL.—Section 4151(c)(3) of OBRA-
4 1990 is amended by striking “December 31, 1992” and
5 inserting “December 31, 1994”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 subsection (a) shall be effective as if included in the enact-
8 ment of OBRA-1990.

9 SEC. 213. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

10 (a) PAYMENT AMOUNTS FOR SERVICES FURNISHED
11 IN AMBULATORY SURGICAL CENTERS.—(1)(A) Section
12 1833(i)(2)(A)(i) (42 U.S.C. 1395l(i)(2)(A)(i)) is amended
13 by striking the comma at the end and inserting the follow-
14 ing: “, as determined in accordance with a survey (based
15 upon a representative sample of procedures and facilities)
16 taken not later than January 1, 1994, and every 5 years
17 thereafter, of the actual audited costs incurred by such
18 centers in providing such services,”.

19 (B) Section 1833(i)(2) (42 U.S.C. 1395l(i)(2)) is
20 amended—

21 (i) in the second sentence of subparagraph (A)
22 and the second sentence of subparagraph (B), by
23 striking “and may be adjusted by the Secretary,
24 when appropriate,”; and

25 (ii) by adding at the end the following new sub-
26 paragraph:

1 “(C) Notwithstanding the second sentence of sub-
2 paragraph (A) or the second sentence of subparagraph
3 (B), if the Secretary has not updated amounts established
4 under such subparagraphs with respect to facility services
5 furnished during a fiscal year (beginning with fiscal year
6 1995), such amounts shall be increased by the percentage
7 increase in the consumer price index for all urban consum-
8 ers (U.S. city average) for the 12-month period ending
9 with March of the preceding fiscal year.”.

10 (C) The second sentence of section 1833(i)(1) (42
11 U.S.C. 1395l(i)(1)) is amended by striking the period and
12 inserting the following: “, in consultation with appropriate
13 trade and professional organizations.”.

14 (2) Section 4151(c)(3) of OBRA-1990 is amended
15 by striking “for the insertion of an intraocular lens” and
16 inserting “for an intraocular lens inserted”.

17 (b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW
18 TECHNOLOGY INTRAOCULAR LENSES.—(1) Not later than
19 1 year after the date of the enactment of this Act, the
20 Secretary of Health and Human Services (in this sub-
21 section referred to as the “Secretary”) shall develop and
22 implement a process under which interested parties may
23 request review by the Secretary of the appropriateness of
24 the reimbursement amount provided under section
25 1833(i)(2)(A)(iii) of the Social Security Act with respect

1 to a class of new technology intraocular lenses. For pur-
2 poses of the preceding sentence, an intraocular lens may
3 not be treated as a new technology lens unless it has been
4 approved by the Food and Drug Administration.

5 (2) In determining whether to provide an adjustment
6 of payment with respect to a particular lens under para-
7 graph (1), the Secretary shall take into account whether
8 use of the lens is likely to result in reduced risk of
9 intraoperative or postoperative complication or trauma,
10 accelerated postoperative recovery, reduced induced astig-
11 matism, improved postoperative visual acuity, more stable
12 postoperative vision, or other comparable clinical advan-
13 tages.

14 (3) The Secretary shall publish notice in the Federal
15 Register from time to time (but no less often than once
16 each year) of a list of the requests that the Secretary has
17 received for review under this subsection, and shall provide
18 for a 30-day comment period on the lenses that are the
19 subjects of the requests contained in such notice. The Sec-
20 retary shall publish a notice of his determinations with
21 respect to intraocular lenses listed in the notice within 90
22 days after the close of the comment period.

23 (4) Any adjustment of a payment amount (or pay-
24 ment limit) made under this subsection shall become effec-
25 tive not later than 30 days after the date on which the

1 notice with respect to the adjustment is published under
2 paragraph (3).

3 (c) BLEND AMOUNTS FOR AMBULATORY SURGICAL
4 CENTER PAYMENTS.—

5 (1) IN GENERAL.—Subclauses (I) and (II) of
6 section 1833(i)(3)(B)(ii) (42 U.S.C.
7 1395l(i)(3)(B)(ii)) are each amended—

8 (A) by striking “for reporting” and insert-
9 ing “for portions of cost reporting”; and

10 (B) by striking “and on or before” and in-
11 serting “and ending on or before”.

12 (2) EFFECTIVE DATE.—The amendments made
13 by paragraph (1) shall take effect as if included in
14 the enactment of OBRA-1990.

15 **Subtitle C—Durable Medical** 16 **Equipment**

17 **SEC. 221. CERTIFICATION OF SUPPLIERS.**

18 (a) REQUIREMENTS.—

19 (1) IN GENERAL.—Section 1834 (42 U.S.C.
20 1395m) is amended by adding at the end the follow-
21 ing new subsection:

22 “(i) REQUIREMENTS FOR SUPPLIERS OF MEDICAL
23 EQUIPMENT AND SUPPLIES.—

24 “(1) ISSUANCE AND RENEWAL OF SUPPLIER
25 NUMBER.—

1 “(A) PAYMENT.—Except as provided in
2 subparagraph (C), no payment may be made
3 under this part after October 1, 1993, for items
4 furnished by a supplier of medical equipment
5 and supplies unless such supplier obtains (and
6 renews at such intervals as the Secretary may
7 require) a supplier number.

8 “(B) STANDARDS FOR POSSESSING A SUP-
9 PLIER NUMBER.—A supplier may not obtain a
10 supplier number unless—

11 “(i) for medical equipment and sup-
12 plies furnished on or after October 1,
13 1993, and on or before December 31,
14 1994, the supplier meets standards pre-
15 scribed by the Secretary; and

16 “(ii) for medical equipment and sup-
17 plies furnished on or after January 1,
18 1995, the supplier meets revised standards
19 prescribed by the Secretary (in consulta-
20 tion with representatives of suppliers of
21 medical equipment and supplies, carriers,
22 and consumers) that shall include require-
23 ments that the supplier—

1 “(I) comply with all applicable
2 State and Federal licensure and regu-
3 latory requirements;

4 “(II) maintain a physical facility
5 on an appropriate site;

6 “(III) have proof of appropriate
7 liability insurance; and

8 “(IV) meet such other require-
9 ments as the Secretary may specify.

10 “(C) EXCEPTION FOR ITEMS FURNISHED
11 AS INCIDENT TO A PHYSICIAN’S SERVICE.—Sub-
12 paragraph (A) shall not apply with respect to
13 medical equipment and supplies furnished as an
14 incident to a physician’s service.

15 “(D) PROHIBITION AGAINST MULTIPLE
16 SUPPLIER NUMBERS.—The Secretary may not
17 issue more than one supplier number to any
18 supplier of medical equipment and supplies un-
19 less the issuance of more than one number is
20 appropriate to identify subsidiary or regional
21 entities under the supplier’s ownership or con-
22 trol.

23 “(E) PROHIBITION AGAINST DELEGATION
24 OF SUPPLIER DETERMINATIONS.—The Sec-
25 retary may not delegate (other than by contract

under section 1842) the responsibility to determine whether suppliers meet the standards necessary to obtain a supplier number.

“(2) CERTIFICATES OF MEDICAL NECESSITY.—

“(A) STANDARDIZED CERTIFICATES.—Not later than October 1, 1993, the Secretary shall, in consultation with carriers under this part, develop one or more standardized certificates of medical necessity (as defined in subparagraph (C)) for medical equipment and supplies for which the Secretary determines that such a certificate is necessary.

“(B) PROHIBITION AGAINST DISTRIBUTION BY SUPPLIERS OF CERTIFICATES OF MEDICAL NECESSITY.—

“(i) IN GENERAL.—Except as provided in clause (ii), a supplier of medical equipment and supplies may not distribute to physicians or to individuals entitled to benefits under this part for commercial purposes any completed or partially completed certificates of medical necessity on or after October 1, 1993.

“(ii) EXCEPTION FOR CERTAIN BILLING INFORMATION.—Clause (i) shall not

1 apply with respect to a certificate of medi-
2 cal necessity for any item that is not con-
3 tained on the list of potentially overused
4 items developed by the Secretary under
5 subsection (a)(15)(A) to the extent that
6 such certificate contains only information
7 completed by the supplier of medical equip-
8 ment and supplies identifying such supplier
9 and the beneficiary to whom such medical
10 equipment and supplies are furnished, a
11 description of such medical equipment and
12 supplies, any product code identifying such
13 medical equipment and supplies, and any
14 other administrative information (other
15 than information relating to the bene-
16 ficiary's medical condition) identified by
17 the Secretary. In the event a supplier pro-
18 vides a certificate of medical necessity con-
19 taining information permitted under this
20 clause, such certificate shall also contain
21 the fee schedule amount and the supplier's
22 charge for the medical equipment or sup-
23 plies being furnished prior to distribution
24 of such certificate to the physician.

“(iii) PENALTY.—Any supplier of medical equipment and supplies who knowingly and willfully distributes a certificate of medical necessity in violation of clause (i) is subject to a civil money penalty in an amount not to exceed \$1,000 for each such certificate of medical necessity so distributed. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this subparagraph in the same manner as they apply to a penalty or proceeding under section 1128A(a).

“(C) DEFINITION.—For purposes of this paragraph, the term ‘certificate of medical necessity’ means a form or other document containing information required by the Secretary to be submitted to show that a covered item is reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.

“(3) COVERAGE AND REVIEW CRITERIA.—

“(A) DEVELOPMENT AND ESTABLISHMENT.—Not later than January 1, 1995, the Secretary, in consultation with representatives

1 of suppliers of medical equipment and supplies,
2 individuals enrolled under this part, and appro-
3 priate medical specialty societies, shall develop
4 and establish uniform national coverage and
5 utilization review criteria for 200 items of medi-
6 cal equipment and supplies selected in accord-
7 ance with the standards described in subpara-
8 graph (B). The Secretary shall publish the cri-
9 teria as part of the instructions provided to fis-
10 cal intermediaries and carriers under this part
11 and no further publication, including publica-
12 tion in the Federal Register, shall be required.

13 “(B) STANDARDS FOR SELECTING ITEMS
14 SUBJECT TO CRITERIA.—The Secretary may se-
15 lect an item for coverage under the criteria de-
16 veloped and established under subparagraph
17 (A) if the Secretary finds that—

18 “(i) the item is frequently purchased
19 or rented by beneficiaries;

20 “(ii) the item is frequently subject to
21 a determination that such item is not
22 medically necessary; or

23 “(iii) the coverage or utilization cri-
24 teria applied to the item (as of the date of

1 the enactment of this subsection) is not
2 consistent among carriers.

3 “(C) ANNUAL REVIEW AND EXPANSION OF
4 ITEMS SUBJECT TO CRITERIA.—The Secretary
5 shall annually review the coverage and utiliza-
6 tion of items of medical equipment and supplies
7 to determine whether items not included among
8 the items selected under subparagraph (A)
9 should be made subject to uniform national cov-
10 erage and utilization review criteria, and, if ap-
11 propriate, shall develop and apply such criteria
12 to such additional items.

13 “(4) DEFINITION.—The term ‘medical equip-
14 ment and supplies’ means—

15 “(A) durable medical equipment (as de-
16 fined in section 1861(n));

17 “(B) prosthetic devices (as described in
18 section 1861(s)(8));

19 “(C) orthotics and prosthetics (as de-
20 scribed in section 1861(s)(9));

21 “(D) surgical dressings (as described in
22 section 1861(s)(5));

23 “(E) such other items as the Secretary
24 may determine; and

1 “(F) for purposes of paragraphs (1) and
2 (3)—

3 “(i) home dialysis supplies and equip-
4 ment (as described in section
5 1861(s)(2)(F)), and

6 “(ii) immunosuppressive drugs (as de-
7 scribed in section 1861(s)(2)(J)).”.

8 (2) CONFORMING AMENDMENT.—Effective October
9 1, 1993, paragraph (16) of section 1834(a) (42 U.S.C.
10 1395m(a)) is repealed.

11 (b) REPORT ON EFFECT OF UNIFORM CRITERIA ON
12 UTILIZATION OF ITEMS.—Not later than July 1, 1995, the
13 Secretary shall submit a report to the Committee on Ways
14 and Means and the Committee on Energy and Commerce
15 of the House of Representatives and the Committee on
16 Finance of the Senate analyzing the impact of the uniform
17 criteria established under section 1834(i)(3)(A) of the So-
18 cial Security Act (as added by subsection (a)) on the utili-
19 zation of items of medical equipment and supplies by indi-
20 viduals enrolled under part B of the medicare program.

21 (c) USE OF COVERED ITEMS BY DISABLED BENE-
22 FICIARIES.—

23 (1) IN GENERAL.—The Secretary of Health and
24 Human Services, in consultation with representa-
25 tives of suppliers of durable medical equipment

1 under part B of the medicare program and individ-
2 uals entitled to benefits under such program on the
3 basis of disability, shall conduct a study of the ef-
4 fects of the methodology for determining payments
5 for items of such equipment under such part on the
6 ability of such individuals to obtain items of such
7 equipment, including customized items.

8 (2) REPORT.—Not later than May 1, 1994, the
9 Secretary shall submit a report to Congress on the
10 study conducted under paragraph (1), and shall in-
11 clude in the report such recommendations as the
12 Secretary considers appropriate to assure that dis-
13 abled medicare beneficiaries have access to items of
14 durable medical equipment.

15 (d) CRITERIA FOR TREATMENT OF ITEMS AS PROS-
16 THETICS DEVICES OR ORTHOTICS AND PROSTHETICS.—
17 Not later than July 1, 1994, the Secretary of Health and
18 Human Services shall submit a report to the Committees
19 on Ways and Means and Energy and Commerce of the
20 House of Representatives and the Committee on Finance
21 of the Senate describing prosthetic devices or orthotics
22 and prosthetics covered under part B of the medicare pro-
23 gram that do not require individualized or custom fitting
24 and adjustment to be used by a patient. Such report shall
25 include recommendations for an appropriate methodology

1 for determining the amount of payment for such items
2 under such program.

3 **SEC. 222. PROHIBITION AGAINST CARRIER FORUM SHOP-**
4 **PING.**

5 (a) IN GENERAL.—Section 1834(a)(12) (42 U.S.C.
6 1395m(a)(12)) is amended to read as follows:

7 “(12) USE OF CARRIERS TO PROCESS
8 CLAIMS.—

9 “(A) DESIGNATION OF REGIONAL CAR-
10 RRIERS.—The Secretary may designate, by regu-
11 lation under section 1842, one carrier for one
12 or more entire regions to process all claims
13 within the region for covered items under this
14 section.

15 “(B) PROHIBITION AGAINST CARRIER
16 SHOPPING.—(i) No supplier of a covered item
17 may present or cause to be presented a claim
18 for payment under this part unless such claim
19 is presented to the appropriate regional carrier
20 (as designated by the Secretary).

21 “(ii) For purposes of clause (i), the term
22 ‘appropriate regional carrier’ means the carrier
23 having jurisdiction over the geographic area
24 that includes the permanent residence of the
25 patient to whom the item is furnished.”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 subsection (a) shall apply to items furnished on or after
 3 October 1, 1993.

4 (c) CLARIFICATION OF AUTHORITY TO DESIGNATE
 5 CARRIERS FOR OTHER ITEMS AND SERVICES.—Nothing
 6 in this subsection or the amendment made by this sub-
 7 section may be construed to restrict the authority of the
 8 Secretary of Health and Human Services to designate re-
 9 gional carriers or modify claims jurisdiction rules with re-
 10 spect to items or services under part B of the medicare
 11 program that are not covered items under section 1834(a)
 12 of the Social Security Act or prosthetic devices or orthotics
 13 and prosthetics under section 1834(h) of such Act.

14 **SEC. 223. RESTRICTIONS ON CERTAIN MARKETING AND**
 15 **SALES ACTIVITIES.**

16 (a) PROHIBITING UNSOLICITED TELEPHONE CON-
 17 TACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIP-
 18 MENT TO MEDICARE BENEFICIARIES.—

19 (1) IN GENERAL.—Section 1834(a) (42 U.S.C.
 20 1395m(a)) is amended by adding at the end the fol-
 21 lowing new paragraph:

22 “(17) PROHIBITION AGAINST UNSOLICITED
 23 TELEPHONE CONTACTS BY SUPPLIERS.—

24 “(A) IN GENERAL.—A supplier of a cov-
 25 ered item under this subsection may not contact

1 an individual enrolled under this part by tele-
2 phone regarding the furnishing of a covered
3 item to the individual (other than a covered
4 item the supplier has already furnished to the
5 individual) unless—

6 “(i) the individual gives permission to
7 the supplier to make contact by telephone
8 for such purpose; or

9 “(ii) the supplier has furnished a cov-
10 ered item under this subsection to the indi-
11 vidual during the 15-month period preced-
12 ing the date on which the supplier contacts
13 the individual for such purpose.

14 “(B) PROHIBITING PAYMENT FOR ITEMS
15 FURNISHED SUBSEQUENT TO UNSOLICITED
16 CONTACTS.—If a supplier knowingly contacts
17 an individual in violation of subparagraph (A),
18 no payment may be made under this part for
19 any item subsequently furnished to the individ-
20 ual by the supplier.

21 “(C) EXCLUSION FROM PROGRAM FOR
22 SUPPLIERS ENGAGING IN PATTERN OF UNSO-
23 LICITED CONTACTS.—If a supplier knowingly
24 contacts individuals in violation of subpara-
25 graph (A) to such an extent that the supplier’s

1 conduct establishes a pattern of contacts in vio-
2 lation of such subparagraph, the Secretary shall
3 exclude the supplier from participation in the
4 programs under this Act, in accordance with
5 the procedures set forth in subsections (c), (f),
6 and (g) of section 1128.”.

7 (2) REQUIRING REFUND OF AMOUNTS COL-
8 LECTED FOR DISALLOWED ITEMS.—Section 1834(a)
9 (42 U.S.C. 1395m(a)), as amended by paragraph
10 (1), is amended by adding at the end the following
11 new paragraph:

12 “(18) REFUND OF AMOUNTS COLLECTED FOR
13 CERTAIN DISALLOWED ITEMS.—

14 “(A) IN GENERAL.—If a nonparticipating
15 supplier furnishes to an individual enrolled
16 under this part a covered item for which no
17 payment may be made under this part by rea-
18 son of paragraph (17)(B), the supplier shall re-
19 fund on a timely basis to the patient (and shall
20 be liable to the patient for) any amounts col-
21 lected from the patient for the item, unless—

22 “(i) the supplier establishes that the
23 supplier did not know and could not rea-
24 sonably have been expected to know that

1 payment may not be made for the item by
2 reason of paragraph (17)(B), or

3 “(ii) before the item was furnished,
4 the patient was informed that payment
5 under this part may not be made for that
6 item and the patient has agreed to pay for
7 that item.

8 “(B) SANCTIONS.—If a supplier knowingly
9 and willfully fails to make refunds in violation
10 of subparagraph (A), the Secretary may apply
11 sanctions against the supplier in accordance
12 with section 1842(j)(2).

13 “(C) NOTICE.—Each carrier with a con-
14 tract in effect under this part with respect to
15 suppliers of covered items shall send any notice
16 of denial of payment for covered items by rea-
17 son of paragraph (17)(B) and for which pay-
18 ment is not requested on an assignment-related
19 basis to the supplier and the patient involved.

20 “(D) TIMELY BASIS DEFINED.—A refund
21 under subparagraph (A) is considered to be on
22 a timely basis only if—

23 “(i) in the case of a supplier who does
24 not request reconsideration or seek appeal
25 on a timely basis, the refund is made with-

in 30 days after the date the supplier receives a denial notice under subparagraph (C), or

“(ii) in the case in which such a reconsideration or appeal is taken, the refund is made within 15 days after the date the supplier receives notice of an adverse determination on reconsideration or appeal.”.

(b) CONFORMING AMENDMENT.—Section 1834(h)(3)

(42 U.S.C. 1395m(h)(3)) is amended by striking “Paragraph (12)” and inserting “Paragraphs (12) and (17)”.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to items furnished after the expiration of the 60-day period that begins on the date of the enactment of this Act.

SEC. 224. KICKBACK CLARIFICATION.

(a) IN GENERAL.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a-7b(b)(3)(B)) is amended by inserting before the semicolon “(except that in the case of a contract supply arrangement between any entity and a supplier of medical supplies and equipment (as defined in section 1834(i)(4), but not including items described in subparagraph (F) of such section), such employment shall not be considered bona fide to the extent that it includes tasks

1 of a clerical and cataloging nature in transmitting to sup-
 2 pliers assignment rights of individuals eligible for benefits
 3 under part B of title XVIII, or performance of
 4 warehousing or stock inventory functions)''.

5 (b) EFFECTIVE DATE.—The amendment made by
 6 subsection (a) shall apply with respect to services fur-
 7 nished on or after the first day of the first month that
 8 begins after the expiration of the 60-day period beginning
 9 on the date of the enactment of this Act.

10 **SEC. 225. BENEFICIARY LIABILITY FOR NONCOVERED**
 11 **SERVICES.**

12 (a) IN GENERAL.—Section 1879 (42 U.S.C. 1395pp)
 13 is amended by adding at the end the following new sub-
 14 section:

15 “(h) If a supplier of medical equipment and supplies
 16 (as defined in section 1834(i)(4))—

17 “(1) furnishes an item or service to a bene-
 18 ficiary for which no payment may be made by reason
 19 of section 1834(i)(1);

20 “(2) furnishes an item or service to a bene-
 21 ficiary for which payment is denied in advance under
 22 section 1834(a)(15); or

23 “(3) furnishes an item or service to a bene-
 24 ficiary for which payment is denied under section
 25 1862(a)(1);

1 any expenses incurred for items and services furnished to
 2 an individual by such a supplier on an unassigned basis
 3 shall be the responsibility of such supplier. The individual
 4 shall have no financial responsibility for such expenses and
 5 the supplier shall refund on a timely basis to the individual
 6 (and shall be liable to the individual for) any amounts col-
 7 lected from the individual for such items or services. The
 8 provisions of section 1834(a)(18) shall apply to refunds
 9 required under the previous sentence in the same manner
 10 as such provisions apply to refunds under such section.”.

11 (b) EFFECTIVE DATE.—The amendment made by
 12 subsection (a) shall apply to items or services furnished
 13 on or after October 1, 1993.

14 **SEC. 226. ADJUSTMENTS FOR INHERENT REASONABLE-**
 15 **NESS.**

16 (a) ADJUSTMENTS MADE TO FINAL PAYMENT
 17 AMOUNTS.—

18 (1) IN GENERAL.—Section 1834(a)(10)(B) (42
 19 U.S.C. 1395m(a)(10)(B)) is amended by adding at
 20 the end the following: “In applying such provisions
 21 to payments for an item under this subsection, the
 22 Secretary shall make adjustments to the payment
 23 basis for the item described in paragraph (1)(B) if
 24 the Secretary determines (in accordance with such
 25 provisions and on the basis of prices and costs appli-

1 cable at the time the item is furnished) that such
2 payment basis is not inherently reasonable.”.

3 (2) EFFECTIVE DATE.—The amendment made
4 by paragraph (1) shall take effect on the date of the
5 enactment of this Act.

6 (b) ADJUSTMENT REQUIRED FOR CERTAIN ITEMS.—

7 (1) IN GENERAL.—In accordance with section
8 1834(a)(10)(B) of the Social Security Act (as
9 amended by subsection (a)), the Secretary of Health
10 and Human Services shall determine whether the
11 payment amounts for the items described in para-
12 graph (2) are not inherently reasonable, and shall
13 adjust such amounts in accordance with such section
14 if the amounts are not inherently reasonable.

15 (2) ITEMS DESCRIBED.—The items referred to
16 in paragraph (1) are decubitus care equipment,
17 transcutaneous electrical nerve stimulators, and any
18 other items considered appropriate by the Secretary.

19 **SEC. 227. PAYMENT FOR PARENTERAL AND ENTERAL NU-**
20 **TRIENTS, SUPPLIES, AND EQUIPMENT DUR-**
21 **ING 1993.**

22 In determining the amount of payment under part
23 B of title XVIII of the Social Security Act during 1994,
24 the charges determined to be reasonable with respect to
25 parenteral and enteral nutrients, supplies, and equipment

1 may not exceed the charges determined to be reasonable
2 with respect to such nutrients, supplies, and equipment
3 during 1993.

4 **SEC. 228. TREATMENT OF NEBULIZERS AND ASPIRATORS.**

5 (a) IN GENERAL.—Section 1834(a)(3)(A) (42 U.S.C.
6 1395m(a)(3)(A)) is amended by striking “ventilators, as-
7 pirators, IPPB machines, and nebulizers” and inserting
8 “ventilators and IPPB machines”.

9 (b) PAYMENT FOR ACCESSORIES RELATING TO
10 NEBULIZERS AND ASPIRATORS.—Section 1834(a) (42
11 U.S.C. 1395m(a)), as amended by section 221(a)(2), is
12 amended by inserting after paragraph (15) the following
13 new paragraph:

14 “(16) PAYMENT FOR ACCESSORIES RELATING
15 TO NEBULIZERS AND ASPIRATORS.—In the case of
16 accessories to be used in conjunction with a
17 nebulizer or aspirator for which payment is made
18 under this subsection, payment shall be made in ac-
19 cordance with paragraph (2) of this subsection.”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to items furnished on or after Jan-
22 uary 1, 1994.

1 SEC. 229. PAYMENT FOR OSTOMY SUPPLIES, TRACHE-
 2 OSTOMY SUPPLIES, UROLOGICALS, AND SUR-
 3 GICAL DRESSINGS.

4 (a) OSTOMY SUPPLIES, TRACHEOSTOMY SUPPLIES,
 5 AND UROLOGICALS.—

6 (1) IN GENERAL.—Section 1834(h)(1) (42
 7 U.S.C. 1395m(h)(1)) is amended by adding at the
 8 end the following new subparagraph:

9 “(E) EXCEPTION FOR CERTAIN ITEMS.—
 10 Payment for ostomy supplies, tracheostomy
 11 supplies, and urologicals shall be made in ac-
 12 cordance with subparagraphs (B) and (C) of
 13 section 1834(a)(2).”.

14 (2) CONFORMING AMENDMENT.—Section
 15 1834(h)(1)(B) (42 U.S.C. 1395m(h)(1)(B)) is
 16 amended by striking “subparagraph (C),” and in-
 17 serting “subparagraphs (C) and (E).”.

18 (3) EFFECTIVE DATE.—The amendments made
 19 by this subsection shall apply to items furnished on
 20 or after January 1, 1994.

21 (b) SURGICAL DRESSINGS.—

22 (1) IN GENERAL.—Section 1834 (42 U.S.C.
 23 1395m), as amended by section 221(a), is amended
 24 by adding at the end the following new subsection:
 25 “(j) PAYMENT FOR SURGICAL DRESSINGS.—

“(1) IN GENERAL.—Payment under this subsection for surgical dressings (described in section 1861(s)(5)) shall be made in a lump sum amount for the purchase of the item in an amount equal to 80 percent of the lesser of—

“(A) the actual charge for the item; or

“(B) a payment amount determined in accordance with the methodology described in subparagraphs (B) and (C) of subsection (a)(2) (except that in applying such methodology, the national limited payment amount referred to in such subparagraphs shall be initially computed based on local payment amounts using average reasonable charges for the 12-month period ending December 31, 1992, increased by the covered item updates described in such subsection for 1993 and 1994)

“(2) EXCEPTIONS.—Paragraph (1) shall not apply to surgical dressings that are—

“(A) furnished as an incident to a physician’s professional service; or

“(B) furnished by a home health agency.”.

(2) CONFORMING AMENDMENT.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by sections 249(e)(2) and 205(e)(1), is amended—

1 (A) by striking “and” before “(P)”, and
 2 (B) by inserting before the semicolon at
 3 the end the following: “, and (Q) with respect
 4 to surgical dressings, the amounts paid shall be
 5 the amounts determined under section
 6 1834(j);”.

7 (3) EFFECTIVE DATE.—The amendments made
 8 by this subsection shall apply to items furnished on
 9 or after January 1, 1994.

10 **SEC. 230. PAYMENTS FOR TENS DEVICES.**

11 (a) IN GENERAL.—Section 1834(a)(1)(D) (42 U.S.C.
 12 1395m(a)(1)(D)) is amended by striking “15 percent” the
 13 second place it appears and inserting “45 percent”.

14 (b) EFFECTIVE DATE.—The amendment made by
 15 subsection (a) shall apply to items furnished on or after
 16 January 1, 1994.

17 **SEC. 231. MISCELLANEOUS AND TECHNICAL CORRECTIONS.**

18 (a) UPDATES TO PAYMENT AMOUNTS.—Subpara-
 19 graph (A) of section 1834(a)(14) (42 U.S.C.
 20 1395m(a)(14)) is amended to read as follows:

21 “(A) for 1991 and 1992, the percentage
 22 increase in the consumer price index for all
 23 urban consumers (U.S. city average) for the 12-
 24 month period ending with June of the previous
 25 year reduced by 1 percentage point; and”.

1 (b) TREATMENT OF POTENTIALLY OVERUSED ITEMS
 2 AND ADVANCED DETERMINATIONS OF COVERAGE.—(1)
 3 Effective on the date of the enactment of this Act, section
 4 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended to
 5 read as follows:

6 “(15) SPECIAL TREATMENT FOR POTENTIALLY
 7 OVERUSED ITEMS.—

8 “(A) DEVELOPMENT OF LIST OF ITEMS BY
 9 SECRETARY.—The Secretary shall develop and
 10 periodically update a list of items for which
 11 payment may be made under this subsection
 12 that are potentially overused, and shall include
 13 in such list seat-lift mechanisms, transcutane-
 14 ous electrical nerve stimulators, motorized
 15 scooters, decubitus care mattresses, and any
 16 such other item determined by the Secretary to
 17 be potentially overused on the basis of any of
 18 the following criteria—

19 “(i) the item is marketed directly to
 20 potential patients;

21 “(ii) the item is marketed with an
 22 offer to potential patients to waive the
 23 costs of coinsurance associated with the
 24 item or is marketed as being available at
 25 no cost to policyholders of a medicare sup-

1 plementary policy (as defined in section
2 1882(g)(1));

3 “(iii) the item has been subject to a
4 consistent pattern of overutilization; or

5 “(iv) a high proportion of claims for
6 payment for such item under this part may
7 not be made because of the application of
8 section 1862(a)(1).

9 “(B) ITEMS SUBJECT TO SPECIAL CARRIER
10 SCRUTINY.—Payment may not be made under
11 this part for any item contained in the list de-
12 veloped by the Secretary under subparagraph
13 (A) unless the carrier has subjected the claim
14 for payment for the item to special scrutiny or
15 has followed the procedures described in para-
16 graph (11)(C) with respect to the item.”.

17 (2) Effective January 1, 1994, section 1834(a)(11)
18 (42 U.S.C. 1395m(a)) is amended by adding at the end
19 the following new subparagraph:

20 “(C) CARRIER DETERMINATIONS FOR CER-
21 TAIN ITEMS IN ADVANCE.—A carrier shall de-
22 termine in advance whether payment for an
23 item may not be made under this subsection be-
24 cause of the application of section 1862(a)(1)
25 if—

“(i) the item is a customized item
(other than inexpensive items specified by
the Secretary); or

“(ii) the item is a specified covered
item under subparagraph (B).”.

(3) Effective for standards applied for contract years
beginning after the date of the enactment of this Act, sec-
tion 1842(c) (42 U.S.C. 1395u(c)), as amended by section
208(a), is amended by adding at the end the following new
paragraph:

“(5) Each contract under this section which provides
for the disbursement of funds, as described in subsection
(a)(1)(B), shall require the carrier to meet criteria devel-
oped by the Secretary to measure the timeliness of carrier
responses to requests for payment of items described in
section 1834(a)(11)(C).”.

(4) Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is
amended by striking “paragraph (10) and paragraph
(11)” and inserting “paragraphs (10) and (11)”.

(c) STUDY OF VARIATIONS IN DURABLE MEDICAL
EQUIPMENT SUPPLIER COSTS.—

(1) COLLECTION AND ANALYSIS OF SUPPLIER
COST DATA.—The Administration of the Health
Care Financing Administration shall, in consultation
with appropriate organizations, collect data on sup-

plier costs of durable medical equipment for which payment may be made under part B of the medicare program, and shall analyze such data to determine the proportions of such costs attributable to the service and product components of furnishing such equipment and the extent to which such proportions vary by type of equipment and by the geographic region in which the supplier is located.

(2) DEVELOPMENT OF GEOGRAPHIC ADJUSTMENT INDEX; REPORTS.—Not later than January 1, 1995—

(A) the Administrator shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the data collected and the analysis conducted under paragraph (1), and shall include in such report the Administrator's recommendations for a geographic cost adjustment index for suppliers of durable medical equipment under the medicare program and an analysis of the impact of such proposed index on payments under the medicare program; and

(B) the Comptroller General shall submit a report to the Committees on Energy and Com-

merce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate analyzing on a geographic basis the supplier costs of durable medical equipment under the medicare program.

(d) OXYGEN RETESTING.—Section 1834(a)(5)(E) (42 U.S.C. 1395m(a)(5)(E)) is amended by striking “55” and inserting “56”.

(e) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—(1) Section 4152(a)(3) of OBRA-1990 is amended by striking “amendment made by subsection (a)” and inserting “amendments made by this subsection”.

(2) Section 4152(c)(2) of OBRA-1990 is amended by striking “1395m(a)(7)(A)” and inserting “1395m(a)(7)”.

(3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C. 1395m(a)(7)(A)(iii)(II)) is amended by striking “clause (v)” and inserting “clause (vi)”.

(4) Section 1834(a)(7)(C)(i) (42 U.S.C. 1395m(a)(7)(C)(i)) is amended by striking “or paragraph (3)”.

(5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)) is amended by striking subparagraph (D).

1 (6) Section 4153(c)(1) of OBRA-1990 is amended
2 by striking "1834(a)" and inserting "1834(h)".

3 (7) Section 4153(d)(2) of OBRA-1990 is amended
4 by striking "Reconciliation" and inserting "Reconcili-
5 ation".

6 (8)(A) Section 1834(a) (42 U.S.C. 1395m(a)) is
7 amended by striking paragraph (6).

8 (B) Section 1834(a) (42 U.S.C. 1395m(a)) is
9 amended—

10 (i) in subparagraphs (A) and (B) of paragraph
11 (1), by striking "(2) through (7)" each place it ap-
12 pears and inserting "(2) through (5) and (7)";

13 (ii) in paragraph (7), by striking "(2) through
14 (6)" and inserting "(2) through (5)";

15 (iii) in paragraph (8), by striking "paragraphs
16 (6) and (7)" each place it appears in the matter pre-
17 ceding subparagraph (A) and in subparagraph (C)
18 and inserting "paragraph (7)"; and

19 (iv) in paragraph (8)(A)(i), by striking "de-
20 scribed—" and all that follows and inserting "de-
21 scribed in paragraph (7) equal to the average of the
22 purchase prices on the claims submitted on an as-
23 signment-related basis for the unused item supplied
24 during the 6-month period ending with December
25 1986".

(9) The amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

Subtitle D—Other Provisions

SEC. 241. PAYMENT FOR MEDICALLY DIRECTED CERTIFIED REGISTERED NURSE ANESTHETIST SERVICES.

(a) IN GENERAL.—Section 1833(l)(4)(B) (42 U.S.C. 1395l(l)(4)(B)) is amended to read as follows:

“(B) Except as provided in subparagraph (D), the conversion factor used to determine the amount paid under the fee schedule under this subsection for services furnished by a certified registered nurse anesthetist who is medically directed—

“(i) in a year after 1993 and before 1997, shall be \$10.75, or

“(ii) in a subsequent calendar year, shall be the previous year’s conversion factor increased by the update determined under section 1848(d)(3) for physician anesthesia services for that year.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1994.

1 **SEC. 242. EXTENSION OF ALZHEIMER'S DISEASE DEM-**
 2 **ONSTRATION.**

3 Section 9342 of OBRA-1986, as amended by section
 4 4164(a)(2) of OBRA-1990, is amended—

5 (1) in subsection (c)(1), by striking “4 years”
 6 and inserting “5 years”; and

7 (2) in subsection (f), —

8 (A) by striking “\$55,000,000” and insert-
 9 ing “\$58,000,000”, and

10 (B) by striking “\$3,000,000” and insert-
 11 ing “\$5,000,000”.

12 **SEC. 243. PART B LATE ENROLLMENT PENALTY.**

13 (a) **LIMITATION ON MEDICARE PART B LATE EN-**
 14 **ROLLMENT PENALTY.—**

15 (1) **IN GENERAL.**—Section 1839 (42 U.S.C.
 16 1395r) is amended by adding at the end the follow-
 17 ing new subsection:

18 “(g) The percent increase in premiums under sub-
 19 section (b) due to late enrollment under this part shall
 20 not exceed 25 percent in the case of an individual who
 21 is annuitant described in subparagraph (A) or (B) of sec-
 22 tion 8901(3) of title 5, United States Code, for a month
 23 if—

24 “(1) during the individual's initial enrollment
 25 period under section 1837(d)—

1 “(A) the individual was enrolled in a group
2 health plan (as defined in section
3 1862(b)(1)(A)(v)) that provided coverage of
4 items and services for which payment may be
5 made under this part, and

6 “(B) the individual elected not to enroll (or
7 to be deemed enrolled) under this section, and

8 “(2) due to a change of coverage under such
9 plan, there is no coverage during the month under
10 such plan with respect to items and services for
11 which payment may be made under this part unless
12 the individual is enrolled under this part.”.

13 (2) EFFECTIVE DATE.—The amendment made
14 by paragraph (1) shall apply to premiums for
15 months beginning with January 1992.

16 (b) PAYMENT OF PART B PREMIUM LATE ENROLL-
17 MENT PENALTIES BY STATES.—Section 1839 (42 U.S.C.
18 1395r), as amended by subsection (a), is further amended
19 by adding at the end the following new subsection:

20 “(h)(1) Upon the request of a State, the Secretary
21 may enter into an agreement with the State under which
22 the State agrees to pay on a quarterly or other periodic
23 basis to the Secretary (to be deposited in the Treasury
24 to the credit of the Federal Supplementary Medical Insur-
25 ance Trust Fund) an amount equal to the amount of the

1 part B late enrollment premium increases with respect to
 2 the premiums for eligible individuals (as defined in para-
 3 graph (3)(A)).

4 “(2) No part B late enrollment premium increase
 5 shall apply to an eligible individual for premiums for
 6 months for which the amount of such an increase is pay-
 7 able under an agreement under paragraph (1).

8 “(3) In this subsection:

9 “(A) The term ‘eligible individual’ means an in-
 10 dividual who is enrolled under this part B and who
 11 is within a class of individuals specified in the agree-
 12 ment under paragraph (1).

13 “(B) The term ‘part B late enrollment premium
 14 increase’ means any increase in a premium as a re-
 15 sult of the application of subsection (b).”.

16 **SEC. 244. ORAL CANCER DRUGS.**

17 (a) COVERAGE OF CERTAIN SELF-ADMINISTERED
 18 ANTICANCER DRUGS.—Section 1861(s)(2) (42 U.S.C.
 19 1395(s)(2)), as amended by section 249(f)(8)(B), is
 20 amended—

21 (1) by striking “and” at the end of subpara-
 22 graph (N);

23 (2) by adding “and” at the end of subpara-
 24 graph (O); and

(3) by adding at the end the following new subparagraph:

“(P) an oral drug (which is approved by the Federal Food and Drug Administration) prescribed for use as an anticancer chemotherapeutic agent for a given indication, and containing an active ingredient (or ingredients), which is the same indication and active ingredient (or ingredients) as a drug which the carrier determines would be covered pursuant to subparagraph (A) or (B) if the drug could not be self-administered;”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 245. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.

(a) SERVICES DEFINED.—Section 1861 (42 U.S.C. 1395x), as amended by section 249(f)(8)(E), is amended by inserting after subsection (kk) the following new subsection:

“Speech-Language Pathology Services; Audiology
Services

“(ll)(1) The term ‘speech-language pathology services’ means such speech, language, and related function assessment and rehabilitation services furnished by a

1 qualified speech-language pathologist as the speech-lan-
2 guage pathologist is legally authorized to perform under
3 State law (or the State regulatory mechanism provided by
4 State law) as would otherwise be covered if furnished by
5 a physician.

6 “(2) The term ‘audiology services’ means such hear-
7 ing and balance assessment services furnished by a quali-
8 fied audiologist as the audiologist is legally authorized to
9 perform under State law (or the State regulatory mecha-
10 nism provided by State law).

11 “(3) In this subsection:

12 “(A) The term ‘qualified speech-language pa-
13 thologist’ means an individual with a master’s or
14 doctoral degree in speech-language pathology who
15 has performed not less than 9 months of supervised
16 full-time speech-language pathology services after
17 obtaining such degree and who—

18 “(i) is licensed (or is otherwise certified) as
19 a speech-language pathologist by the State in
20 which the individual furnishes such services, or

21 “(ii) in the case of an individual who fur-
22 nishes services in a State which does not pro-
23 vide for the licensing (or other form of certifi-
24 cation) of speech-language pathologists, has
25 successfully completed a national clinical com-

1 petency examination in speech-language pathol-
2 ogy approved by the Secretary.

3 “(B) The term ‘qualified audiologist’ means an
4 individual with a master’s or doctoral degree in
5 audiology who has performed not less than 9 months
6 of supervised full-time audiology services after ob-
7 taining such degree and who—

8 “(i) is licensed (or is otherwise certified) as
9 an audiologist by the State in which the individ-
10 ual furnishes such services, or

11 “(ii) in the case of an individual who fur-
12 nishes services in a State which does not pro-
13 vide for the licensing (or other form of certifi-
14 cation) of audiologists, has successfully com-
15 pleted a national clinical competency examina-
16 tion in audiology approved by the Secretary.”.

17 (b) CONFORMING AMENDMENTS RELATING TO MED-
18 ICARE TREATMENT OF SPEECH AND LANGUAGE SERV-
19 ICES.—

20 (1) EXTENDED CARE SERVICES.—Section
21 1861(h)(3) (42 U.S.C. 1395x(h)(3)) is amended by
22 striking “, occupational, or speech therapy” and in-
23 serting “or occupational therapy or speech-language
24 pathology services”.

1 (2) HOME HEALTH SERVICES.—Section
2 1861(m)(2) (42 U.S.C. 1395x(m)(2)) is amended by
3 striking “, occupational, or speech therapy” and in-
4 serting “or occupational therapy or speech-language
5 pathology services”.

6 (3) OUTPATIENT PHYSICAL THERAPY SERV-
7 ICES.—The fourth sentence of section 1861(p) (42
8 U.S.C. 1395x(p)) is amended by striking “speech
9 pathology services” and inserting “speech-language
10 pathology services”.

11 (4) COMPREHENSIVE OUTPATIENT REHABILITA-
12 TION FACILITY SERVICES.—Section 1861(cc)(1)(B)
13 (42 U.S.C. 1395x(cc)(1)(B)) is amended by striking
14 “speech pathology services” and inserting “speech-
15 language pathology services”.

16 (5) HOSPICE CARE.—Section 1861(dd)(1)(B)
17 (42 U.S.C. 1395x(dd)(1)(B)) is amended by striking
18 “therapy or speech-language pathology” and insert-
19 ing “therapy, or speech-language pathology serv-
20 ices”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to services furnished on or after
23 January 1, 1994.

1 SEC. 246. EXTENSION OF MUNICIPAL HEALTH SERVICE
2 DEMONSTRATION PROJECTS.

3 Section 9215 of the Consolidated Omnibus Budget
4 Reconciliation Act of 1985, as amended by section 6135
5 of OBRA-1989, is amended—

6 (1) by striking “December 31, 1993” and in-
7 serting “December 31, 1997”, and

8 (2) in the second sentence, by inserting after
9 “beneficiary costs,” the following: “costs to the med-
10 icaid program and other payors, access to care, out-
11 comes, beneficiary satisfaction, utilization differences
12 among the different populations served by the
13 projects,”.

14 SEC. 247. TREATMENT OF CERTAIN INDIAN HEALTH PRO-
15 GRAMS AND FACILITIES AS FEDERALLY-
16 QUALIFIED HEALTH CENTERS.

17 (a) IN GENERAL.—Section 1861(aa)(4) (42 U.S.C.
18 1395x(aa)(4)) is amended—

19 (1) by striking “or” at the end of subparagraph
20 (B);

21 (2) by striking the period at the end of sub-
22 paragraph (C) and inserting “; or”; and

23 (3) by adding at the end the following new sub-
24 paragraph:

25 “(D) is an outpatient health program or facility
26 operated by a tribe or tribal organization under the

1 Indian Self-Determination Act or by an urban In-
 2 dian organization receiving funds under title V of
 3 the Indian Health Care Improvement Act.”.

4 (b) EFFECTIVE DATE.—The amendment made by
 5 subsection (a) shall take effect as if included in the enact-
 6 ment of section 4161(a)(2)(C) of OBRA-1990.

7 **SEC. 248. EXTENSION OF INFLUENZA VACCINATION DEM-**
 8 **ONSTRATION.**

9 (a) IN GENERAL.—Section 4071(b)(1) of OBRA-
 10 1987 is amended by striking the period at the end and
 11 inserting the following: “, except that the reference in
 12 clause (ii) of paragraph (2)(B) of such subsection to ‘24
 13 months’ shall be deemed to be a reference to ‘30
 14 months’.”.

15 (b) LIMITATION ON USE OF AMOUNTS.—The second
 16 sentence of section 4071(b)(2) of OBRA-1987 is amended
 17 by striking “and evaluate” and inserting “and (during fis-
 18 cal years other than fiscal year 1993) evaluate”.

19 **SEC. 249. MISCELLANEOUS AND TECHNICAL CORRECTIONS.**

20 (a) REVISION OF INFORMATION ON PART B CLAIMS
 21 FORMS.—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is
 22 amended—

23 (1) by striking “provider number” and inserting
 24 “unique physician identification number”; and

(2) by striking “and indicate whether or not the referring physician is an interested investor (within the meaning of section 1877(h)(5))”.

(b) CONSULTATION FOR SOCIAL WORKERS.—Effective with respect to services furnished on or after January 1, 1991, section 6113(c) of OBRA-1989 is amended—

(1) by inserting “and clinical social worker services” after “psychologist services”; and

(2) by striking “psychologist” the second and third place it appears and inserting “psychologist or clinical social worker”.

(c) REPORTS ON HOSPITAL OUTPATIENT PAYMENT.—(1) OBRA-1989 is amended by striking section 6137.

(2) Section 1135(d) (42 U.S.C. 1320b-5(d)) is amended—

(A) by striking paragraph (6); and

(B) in paragraph (7)—

(i) by striking “systems” each place it appears and inserting “system”; and

(ii) by striking “paragraphs (1) and (6)” and inserting “paragraph (1)”.

(d) RADIOLOGY AND DIAGNOSTIC SERVICES PROVIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—(1) Effective as if included in the enactment of OBRA-1989,

1 section 1833(n)(1)(B)(i)(II) (42 U.S.C.

2 1395l(n)(1)(B)(i)(II)) is amended—

3 (A) by striking “1989” and inserting “1989
4 and for services described in subsection (a)(2)(E)(ii)
5 furnished on or after January 1, 1992”; and

6 (B) by striking “1842(b)” and inserting
7 “1842(b) (or, in the case of services furnished on or
8 after January 1, 1992, under section 1848)”.

9 (2) Effective as if included in the enactment of
10 OBRA—1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C.
11 1395l(n)(1)(B)(i)(II)) is amended by striking “January 1,
12 1989” and inserting “April 1, 1989”.

13 (e) PAYMENTS TO NURSE PRACTITIONERS IN RURAL
14 AREAS (SECTION 4155 OF OBRA—1990).—(1) Section
15 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is
16 amended—

17 (A) by striking “subsection (aa)(3)” and insert-
18 ing “subsection (aa)(5)”; and

19 (B) by striking “subsection (aa)(4)” and insert-
20 ing “subsection (aa)(6)”.

21 (2) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is
22 amended—

23 (A) by striking “and” before “(N)”; and

24 (B) with respect to the matter inserted by sec-
25 tion 4155(b)(2)(B) of OBRA—1990—

1 (i) by striking “(M)” and inserting “, and
2 (O)”, and

3 (ii) by transferring and inserting it (as
4 amended) immediately before the semicolon at
5 the end.

6 (3) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is
7 amended—

8 (A) by striking “ambulatory” each place it ap-
9 pears and inserting “or ambulatory”; and

10 (B) by striking “center,” and inserting “cen-
11 ter”.

12 (4) Section 1833(r)(2)(A) (42 U.S.C. 1395l(r)(2)(A))
13 is amended by striking “subsection (a)(1)(M)” and insert-
14 ing “subsection (a)(1)(O)”.

15 (5) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is
16 amended by striking “subsection (s)(2)(K)(i)” and insert-
17 ing “clauses (i) or (iii) of subsection (s)(2)(K)”.

18 (6) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is
19 amended by striking “this Act” and inserting “this title”.

20 (7) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is
21 amended by striking “1861(s)(2)(K)(i)” and inserting
22 “1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)”.

23 (8) Section 1866(a)(1)(H) (42 U.S.C.
24 1395cc(a)(1)(H)) is amended by striking

1 “1861(s)(2)(K)(i)” and inserting “1861(s)(2)(K)(i) or
2 1861(s)(2)(K)(iii)”.

3 (f) OTHER MISCELLANEOUS AND TECHNICAL
4 AMENDMENTS.—

5 (1) IMMEDIATE ENROLLMENT IN PART B BY IN-
6 DIVIDUALS COVERED BY AN EMPLOYMENT-BASED
7 PLAN.—(A) Subparagraphs (A) and (B) of section
8 1837(i)(3) (42 U.S.C. 1395p(i)(3)) are each
9 amended—

10 (i) by striking “beginning with the first
11 day of the first month in which the individual
12 is no longer enrolled” and inserting “including
13 each month during any part of which the indi-
14 vidual is enrolled”; and

15 (ii) by striking “and ending seven months
16 later” and inserting “ending with the last day
17 of the eighth consecutive month in which the in-
18 dividual is at no time so enrolled”.

19 (B) Paragraphs (1) and (2) of section 1838(e)
20 (42 U.S.C. 1395q(e)) are amended to read as fol-
21 lows:

22 “(1) in any month of the special enrollment pe-
23 riod in which the individual is at any time enrolled
24 in a plan (specified in subparagraph (A) or (B), as
25 applicable, of section 1837(i)(3)) or in the first

month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

“(2) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.”.

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the first day of the first month that begins after the expiration of the 120-day period that begins on the date of the enactment of this Act.

(2) BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) are each amended—

(A) by striking “for reporting” and inserting “for portions of cost reporting”; and

(B) by striking “and on or before” and inserting “and ending on or before”.

(3) CLINICAL DIAGNOSTIC LABORATORY TESTS (SECTION 4154 OF OBRA-1990).—Section 4154(e)(5)

1 of OBRA-1990 is amended by striking “(1)(A)” and
 2 inserting “(1)(A),”.

3 (4) SEPARATE PAYMENT UNDER PART B FOR
 4 CERTAIN SERVICES (SECTION 4157 OF OBRA-1990).—
 5 Section 4157(a) of OBRA-1990 is amended by
 6 striking “(a) SERVICES OF” and all that follows
 7 through “Section” and inserting “(a) TREATMENT
 8 OF SERVICES OF CERTAIN HEALTH PRACTITION-
 9 ERS.—Section”.

10 (5) CERTIFIED REGISTERED NURSE ANES-
 11 THETISTS (SECTION 4160 OF OBRA-1990).—Section
 12 1833(l)(4)(B)(ii)(VII) (42 U.S.C.
 13 1395l(l)(4)(B)(ii)(VII)) is amended by striking
 14 “1997” and inserting “1996”.

15 (6) COMMUNITY HEALTH CENTERS AND RURAL
 16 HEALTH CLINICS (SECTION 4161 OF OBRA-1990).—
 17 (A) The fourth sentence of section 1861(aa)(2) (42
 18 U.S.C. 1395x(aa)(2)) is amended—

19 (i) by striking “certification” the first
 20 place it appears and inserting “approval”; and

21 (ii) by striking “the Secretary’s approval
 22 or disapproval of the certification” and insert-
 23 ing “Secretary’s approval or disapproval”.

(B) Section 4161(a)(7)(B) of OBRA-1990 is amended by inserting "and to the Committee on Finance of the Senate" after "Representatives".

(7) SCREENING MAMMOGRAPHY (SECTION 4163 OF OBRA-1990).—Section 4163 of OBRA-1990 is amended—

(A) by adding at the end of subsection (d) the following new paragraph:

"(3) The amendment made by paragraph (2)(A)(iv) shall apply to screening pap smears performed on or after July 1, 1990."; and

(B) in subsection (e), by striking "The amendments" and inserting "Except as provided in subsection (d)(3), the amendments.".

(8) INJECTABLE DRUGS FOR TREATMENT OF OSTEOPOROSIS.—

(A) CLARIFICATION OF DRUGS COVERED.—The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA-1990 is amended—

(i) in the matter preceding paragraph (1), by striking "a bone fracture related to"; and

(ii) in paragraph (1), by striking "patient" and inserting "individual has suf-

1 ferred a bone fracture related to post-meno-
2 pausal osteoporosis and that the individ-
3 ual”.

4 (B) LIMITING COVERAGE TO DRUGS PRO-
5 VIDED BY HOME HEALTH AGENCIES.—(i) The
6 section 1861(jj) (42 U.S.C. 1395x(jj)) inserted
7 by section 4156(a)(2) of OBRA-1990 is
8 amended by striking “if” and inserting “by a
9 home health agency if”.

10 (ii) Section 1861(m)(5) (42 U.S.C.
11 1395x(m)(5)) is amended by striking “but ex-
12 cluding” and inserting “and a covered
13 osteoporosis drug (as defined in subsection
14 (kk), but excluding other”.

15 (iii) Section 1861(s)(2) (42 U.S.C.
16 1395x(s)(2)) is amended—

17 (I) by adding “and” at the end of
18 subparagraph (N), and

19 (II) by striking subparagraph (O) and
20 redesignating subparagraph (P) as sub-
21 paragraph (O).

22 (C) PAYMENT BASED ON REASONABLE
23 COST.—Section 1833(a)(2) (42 U.S.C.
24 1395l(a)(2)) is amended—

(i) in subparagraph (A), by striking “health services” and inserting “health services (other than covered osteoporosis drug (as defined in section 1861(kk)))”;

(ii) by striking “and” at the end of subparagraph (D);

(iii) by striking the semicolon at the end and inserting “; and”; and

(iv) by adding at the end the following new subparagraph:

“(F) with respect to covered osteoporosis drug (as defined in section 1861(kk)) furnished by a home health agency, 80 percent of the reasonable cost of such service, as determined under section 1861(v).”.

(D) APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b)(2) (42 U.S.C. 1395l(b)(2)) is amended by striking “services” and inserting “services (other than covered osteoporosis drug (as defined in section 1861(kk)))”.

(E) COVERED OSTEOPOROSIS DRUG (SECTION 4156 OF OBRA-1990).—Section 1861 (42 U.S.C. 1395x) is amended, in the subsection (jj) inserted by section 4156(a)(2) of OBRA-

1 1990, by striking “(jj) The term” and inserting
 2 “(kk) The term”.

3 (9) OTHER MISCELLANEOUS AND TECHNICAL
 4 CORRECTIONS (SECTION 4164 OF OBRA-1990).—

5 (A) OWNERSHIP DISCLOSURE REQUIRE-
 6 MENTS.—(i) Section 1124A(a)(2)(A) (42
 7 U.S.C. 1320a-3a(a)(2)(A)) is amended by
 8 striking “of the Social Security Act”.

9 (ii) Section 4164(b)(4) of OBRA-1990 is
 10 amended by striking “paragraph” and inserting
 11 “paragraphs”.

12 (B) DIRECTORY OF UNIQUE PHYSICIAN
 13 IDENTIFIER NUMBERS.—Section 4164(c) of
 14 OBRA-1990 is amended by striking “publish”
 15 and inserting “publish, and shall periodically
 16 update,”.

17 (g) EFFECTIVE DATE.—Except as otherwise provided
 18 in this section, the amendments made by this section shall
 19 take effect as if included in the enactment of OBRA-1990.

20 TITLE III—PROVISIONS 21 RELATING TO PARTS A AND B

22 SEC. 301. PROVISIONS RELATING TO PHYSICIAN OWNER- 23 SHIP AND REFERRAL.

24 (a) MULTIPLE LOCATIONS FOR GROUP PRAC-
 25 TICES.—Section 1877(b)(2)(A)(ii)(II) (42 U.S.C.

1 1395nn(b)(2)(A)(ii)(II)) is amended by striking "central-
2 ized provision" and inserting "provision of some or all".

3 (b) TREATMENT OF COMPENSATION ARRANGE-
4 MENTS.—

5 (1) RENTAL OF OFFICE SPACE AND EQUIP-
6 MENT.—Paragraph (1) of section 1877(e) (42
7 U.S.C. 1395nn(e)) is amended to read as follows:

8 "(1) RENTAL OF OFFICE SPACE; RENTAL OF
9 EQUIPMENT.—

10 "(A) OFFICE SPACE.—Payments made by
11 a lessee to a lessor for the use of premises if—

12 "(i) the lease is set out in writing,
13 signed by the parties, and specifies the
14 premises covered by the lease,

15 "(ii) the aggregate space rented or
16 leased is reasonable and necessary for the
17 legitimate business purposes of the lease or
18 rental,

19 "(iii) the lease provides for a term of
20 rental or lease for at least one year,

21 "(iv) in the case of a lease that is in-
22 tended to provide the lessee with access to
23 the premises for periodic intervals of time,
24 rather than on a full-time basis, the lease
25 specifies exactly the schedule of such inter-

1 vals, their length, and the rent for such in-
2 tervals,

3 “(v) the rental charges over the term
4 of the lease are set in advance, are consist-
5 ent with fair market value, and are not de-
6 termined in a manner that takes into ac-
7 count the volume or value of any referrals
8 or other business generated between the
9 parties,

10 “(vi) the lease would be commercially
11 reasonable even if no referrals were made
12 between the parties, and

13 “(vii) the compensation arrangement
14 meets such other requirements as the Sec-
15 retary may impose by regulation as needed
16 to protect against program or patient
17 abuse.

18 “(B) EQUIPMENT.—Payments made by a
19 lessee of equipment to the lessor of the equip-
20 ment for the use of the equipment if—

21 “(i) the lease is set out in writing,
22 signed by the parties, and specifies the
23 equipment covered by the lease,

“(ii) the equipment rented or leased is reasonable and necessary for the legitimate business purposes of the lease or rental,

“(iii) the lease provides for a term of rental or lease of at least one year,

“(iv) in the case of a lease that is intended to provide the lessee with use of the equipment for periodic intervals of time, rather than on a full-time basis, the lease specifies exactly the schedule of such intervals, their length, and the rent for such intervals,

“(v) the rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

“(vi) the lease would be commercially reasonable even if no referrals were made between the parties, and

“(vii) the compensation arrangement meets such other requirements as the Secretary may impose by regulation as needed

1 to protect against program or patient
2 abuse.”.

3 (2) BONA FIDE EMPLOYMENT RELATION-
4 SHIPS.—Paragraph (2) of such section is amended—

5 (A) by striking “WITH HOSPITALS”,

6 (B) by striking “An arrangement” and all
7 that follows through “if” and inserting “Any
8 amount paid by an employer to an employee
9 who has a bona fide employment relationship
10 with the employer for employment, or paid by
11 a hospital pursuant to an arrangement with a
12 physician (or immediate family member) for the
13 provision of administrative services, if”,

14 (C) in subparagraphs (A), (B), and (D), by
15 striking “arrangement” and inserting “employ-
16 ment relationship or arrangement”, and

17 (D) in subparagraph (C), by striking “to
18 the hospital”.

19 (3) ADDITIONAL EXCEPTIONS.—Such sub-
20 section is further amended by adding at the end the
21 following new paragraphs:

22 “(7) PAYMENTS TO A PHYSICIAN FOR OTHER
23 ITEMS OR SERVICES.—

24 “(A) IN GENERAL.—Payments made by an
25 entity to a physician (or family member) who is

1 not employed by the entity as compensation for
2 services specified in subparagraph (B), if—

3 “(i) the compensation agreement is
4 set out in writing and specifies the services
5 to be provided by the parties, the com-
6 pensation for each unit of service provided
7 under the agreement, and the schedule for
8 the provision of such services,

9 “(ii) the compensation paid over the
10 term of the agreement is consistent with
11 fair market value and is not determined in
12 a manner that takes into account the vol-
13 ume or value of any referrals or other busi-
14 ness generated between the parties,

15 “(iii) the compensation is provided
16 pursuant to an agreement which would be
17 commercially reasonable even if no refer-
18 rals were made to the entity, and

19 “(iv) the compensation arrangement
20 meets such other requirements as the Sec-
21 retary may impose by regulation as needed
22 to protect against program or patient
23 abuse.

1 “(B) SPECIFIED SERVICES.—For purposes
2 of subparagraph (A), the services specified in
3 this subparagraph are any of the following:

4 “(i) Consultative services that—

5 “(I) relate to test results that
6 have been obtained that are outside
7 established parameters, or are specifi-
8 cally requested by the referring physi-
9 cian on a specified patient,

10 “(II) are furnished by a physi-
11 cian other than the referring physi-
12 cian (or by another physician who is
13 a member of the same group prac-
14 tice), and

15 “(III) for which the physician
16 furnishes a written report for that pa-
17 tient.

18 “(ii) Interpretation of tissue pathology
19 or Pap smear slides or the provision of
20 other cytology services.

21 “(iii) Phlebotomy services for pater-
22 nity or toxicology testing where the serv-
23 ices are furnished by a physician other
24 than the physician referring the individual
25 for such testing (or by another physician

1 who is a member of the same group prac-
2 tice).

3 “(iv) Employment-related health care
4 services, including a payment by a self-in-
5+ sured employer for services rendered to
6+ employee applicants, employees, or their
7+ families under the terms of a health bene-
8 fit plan.

9 “(v) Services as a clinical consultant
10 to the entity as required for certification of
11 the provider under section 353 of the Pub-
12 lic Health Service Act.

13 “(vi) Services required by local, State,
14 or Federal licensure, accreditation, or
15 other health and safety provisions.

16 “(vii) Services billed in the name of a
17 group practice provided by a physician
18 under contract to the group practice for
19 services not otherwise available directly
20 through a physician who is a member of
21 the group.

22 “(8) PAYMENTS BY A PHYSICIAN FOR ITEMS
23 AND SERVICES.—Payments made by a physician—

24 “(A) to a laboratory in exchange for the
25 provision of clinical laboratory services, or

1 “(B) to an entity as compensation for
2 other items or services if the items or services
3 are furnished at a price that is consistent with
4 fair market value and are generally available to
5 referrers and non-referrers alike on similar
6 terms and conditions.

7 “(9) PAYMENTS FOR PATHOLOGY SERVICES OF
8 A GROUP PRACTICE.—Payments made to a group
9 practice for pathology services under an agreement
10 if—

11 “(A) the agreement is set out in writing
12 and specifies the services to be provided by the
13 parties and the compensation for services pro-
14 vided under the agreement;

15 “(B) the compensation paid over the
16 term of the agreement is consistent with
17 fair market value and is not determined in
18 a manner that takes into account the vol-
19 ume or value of any referrals or other busi-
20 ness generated between the parties,

21 “(C) the compensation is provided
22 pursuant to an agreement which would be
23 commercially reasonable even if no refer-
24 rals were made to the entity; and

“(D) the compensation arrangement between the parties meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.”.

(c) TREATMENT OF GROUP PRACTICE LABORATORIES.—

(1) USE OF BILLING NUMBERS, ETC.—Section 1877 is amended—

(A) in subsection (b)(2)(B), by inserting “under a billing number assigned to the group practice” after “member”,

(B) in subsection (h)(4)(B), by inserting “and under a billing number assigned to the group” after “in the name of the group”, and

(C) in subsection (h)(4)(C), by striking “by members of the group”.

(2) TREATMENT OF SERVICES UNDER ARRANGEMENTS BETWEEN HOSPITALS AND GROUP PRACTICES.—

(A) IN GENERAL.—Section 1877(h)(4) is amended—

(i) in subparagraph (B) (as amended by paragraph (1)(B)), by inserting “(or are billed in the name of a hospital for

1 which the group provides clinical labora-
2 tory services pursuant to an arrangement
3 that meets the requirements of subpara-
4 graph (B))” after “assigned to the group”;

5 (ii) by redesignating subparagraphs
6 (A) through (D) as clauses (i) through
7 (iv), respectively;

8 (iii) by inserting “(A)” after “.—”;
9 and

10 (iv) by adding at the end the following
11 new subparagraph:

12 “(B) The requirements of this subparagraph,
13 with respect to an arrangement for clinical labora-
14 tory services provided by the laboratory of a group
15 and billed in the name of a hospital, are that—

16 “(i) with respect to services provided to an
17 inpatient of the hospital, the arrangement is
18 pursuant to the provision of inpatient hospital
19 services under section 1861(b)(3);

20 “(ii) the arrangement began before Decem-
21 ber 19, 1989, and has continued in effect with-
22 out interruption since such date;

23 “(iii) the laboratory provides substantially
24 all of the clinical laboratory services to the hos-
25 pital’s patients;

1 “(iv) the arrangement is pursuant to an
2 agreement that is set out in writing and that
3 specifies the services to be provided by the par-
4 ties and the compensation for services provided
5 under the agreement;

6 “(v) the compensation paid over the term
7 of the agreement is consistent with fair market
8 value and the compensation per unit of services
9 is fixed in advance and is not determined in a
10 manner that takes into account the volume or
11 value of any referrals or other business gen-
12 erated between the parties,

13 “(vi) the compensation is provided pursu-
14 ant to an agreement which would be commer-
15 cially reasonable even if no referrals were made
16 to the entity; and

17 “(vii) the arrangement between the parties
18 meets such other requirements as the Secretary
19 may impose by regulation as needed to protect
20 against program or patient abuse.”.

21 (B) CONFORMING AMENDMENT.—Section
22 1877(b)(2)(B) is amended by inserting “(or by
23 a hospital for which such a group practice pro-
24 vides clinical laboratory services pursuant to an
25 arrangement that meets the requirements of

1 subsection (h)(4)(B))” after “by a group prac-
 2 tice of which such physician is a member”.

3 (3) TREATMENT OF CERTAIN FACULTY PRAC-
 4 TICE PLANS.—The last sentence of section
 5 1877(h)(4)(A), as redesignated by paragraph (1)(A),
 6 is amended by inserting “, institution of higher edu-
 7 cation, or medical school” after “hospital”.

8 (d) EXPANDING RURAL PROVIDER EXCEPTION TO
 9 COVER COMPENSATION ARRANGEMENTS.—

10 (1) IN GENERAL.—Section 1877(b) is further
 11 amended—

12 (A) by redesignating paragraph (5) as
 13 paragraph (7), and

14 (B) by inserting after paragraph (4) the
 15 following new paragraph:

16 “(5) RURAL PROVIDERS.—In the case of clini-
 17 cal laboratory services if—

18 “(A) the laboratory furnishing the services
 19 is in a rural area (as defined in section
 20 1886(d)(2)(D)), and

21 “(B) substantially all of the services fur-
 22 nished by the laboratory to individuals entitled
 23 to benefits under this title are furnished to such
 24 individuals who reside in such a rural area.”.

(2) CONFORMING AMENDMENTS.—Section 1877(d) is amended—

(A) by striking paragraph (2), and

(B) by redesignating paragraph (3) as paragraph (2).

(e) EXCEPTION FOR SHARED FACILITY SERVICES.—

(1) IN GENERAL.—Section 1877 is amended—

(A) in subsection (b), as amended by subsection (d)(1), by inserting after paragraph (5) the following new paragraph:

“(6) SHARED FACILITY SERVICES.—

“(A) IN GENERAL.—In the case of shared facility services of a shared facility—

“(i) that are furnished—

“(I) personally by the referring physician who is a shared facility physician or personally by an individual supervised by such a physician or by another shared facility physician and employed under the shared facility arrangement,

“(II) by a shared facility in a building in which the referring physician furnishes physician’s services un-

1 related to the furnishing of shared fa-
2 cility services, and

3 “(III) to a patient of a shared fa-
4 cility physician; and

5 “(ii) that are billed by the referring
6 physician or by an entity that is wholly
7 owned by such physician.

8 “(B) LIMITATION.—The exception under
9 this paragraph shall only apply to a shared fa-
10 cility only if the facility and the shared facility
11 arrangement were established as of June 26,
12 1992.”; and

13 (B) in subsection (h), by adding at the end
14 the following new paragraph:

15 “(8) SHARED FACILITY RELATED DEFINI-
16 TIONS.—

17 “(A) SHARED FACILITY SERVICES.—The
18 term ‘shared facility services’ means, with re-
19 spect to a shared facility, clinical laboratory
20 services furnished by the facility to patients of
21 shared facility physicians.

22 “(B) SHARED FACILITY.—The term
23 ‘shared facility’ means an entity that furnishes
24 shared facility services under a shared facility
25 arrangement.

1 “(C) SHARED FACILITY PHYSICIAN.—The
2 term ‘shared facility physician’ means, with re-
3 spect to a shared facility, a physician who has
4 a financial relationship under a shared facility
5 arrangement with the facility.

6 “(D) SHARED FACILITY ARRANGEMENT.—
7 The term ‘shared facility arrangement’ means,
8 with respect to the provision of shared facility
9 services in a building, a financial
10 arrangement—

11 “(i) which is only between physicians
12 who are providing services (unrelated to
13 shared facility services) in the same build-
14 ing,

15 “(ii) in which the overhead expenses
16 of the facility are shared, in accordance
17 with methods previously determined by the
18 physicians in the arrangement, among the
19 physicians in the arrangement, and

20 “(iii) which, in the case of a corpora-
21 tion, is wholly owned and controlled by
22 shared facility physicians.”.

23 (2) GAO STUDY OF SHARED FACILITY AR-
24 RANGEMENTS.—

1 (A) IN GENERAL.—The Comptroller Gen-
2 eral shall analyze the effect on the utilization of
3 health services of shared facility arrangements
4 for which an exception is provided under the
5 amendments made by paragraph (1). The anal-
6 ysis shall include a review of the effect of the
7 limitation, described in section 1877(b)(6)(B) of
8 the Social Security Act (as added by paragraph
9 (1)), with respect to such exception and on the
10 availability of services (including hematology
11 services).

12 (B) REPORT.—Not later than January 1,
13 1994, the Comptroller General shall submit a
14 report to Congress on the analysis conducted
15 under subparagraph (A). The report shall in-
16 clude recommendations with respect to chang-
17 ing the limitation.

18 (f) EXEMPTION OF COMPENSATION ARRANGEMENTS
19 INVOLVING CERTAIN TYPES OF REMUNERATION.—Sec-
20 tion 1877(h)(1) (42 U.S.C. 1395nn(h)(1)) is amended—

21 (1) by striking subparagraph (B);

22 (2) in subparagraph (A), by inserting before the
23 period the following: “(other than an arrangement
24 involving only remuneration described in subpara-
25 graph (B))”; and

(3) by adding at the end the following new subparagraph:

“(B) Remuneration described in this subparagraph is any remuneration consisting of any of the following:

“(i) The forgiveness of amounts owed for inaccurate tests, mistakenly performed tests, or the correction of minor billing errors.

“(ii) The provision of items, devices, or supplies of minor value that are used to—

“(I) collect, transport, process, or store specimens for the entity providing the item, device, or supply, or

“(II) communicate the results of tests for such entity.

“(iii) The furnishing by an entity of laboratory services to a group practice affiliated with the entity, if the entity provides all or substantially all of the clinical laboratory services of the group practice.”.

(g) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—Section 1877 (42 U.S.C. 1395nn) is amended—

(1) in the fourth sentence of subsection (f)—

(A) by striking “provided” and inserting “furnished”, and

1 (B) by striking “provides” and inserting
2 “furnish”;

3 (2) in the fifth sentence of subsection (f)—

4 (A) by striking “providing” each place it
5 appears and inserting “furnishing”,

6 (B) by striking “with respect to the provid-
7 ers” and inserting “with respect to the enti-
8 ties”, and

9 (C) by striking “diagnostic imaging serv-
10 ices of any type” and inserting “magnetic reso-
11 nance imaging, computerized axial tomography
12 scans, and ultrasound services”; and

13 (3) in subsection (a)(2)(B), by striking “sub-
14 section (h)(1)(A)” and inserting “subsection (h)(1)”.

15 (h) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to referrals made on or after Janu-
17 ary 1, 1992.

18 **SEC. 302. DIRECT GRADUATE MEDICAL EDUCATION.**

19 (a) ADJUSTMENT IN GME BASE-YEAR COSTS OF
20 FEDERAL INSURANCE CONTRIBUTIONS ACT.—

21 (1) IN GENERAL.—In determining the amount
22 of payment to be made under section 1886(h) of the
23 Social Security Act in the case of a hospital de-
24 scribed in subsection (b) for cost reporting periods
25 beginning on or after October 1, 1992, the Secretary

1 of Health and Human Services shall redetermine the
2 approved FTE resident amount to reflect the
3 amount that would have been paid the hospital if,
4 during the hospital's base cost reporting period, the
5 hospital had been liable for FICA taxes or for con-
6 tributions to the retirement system of a State, a po-
7 litical subdivision of a State, or an instrumentality
8 of such a State or political subdivision with respect
9 to interns and residents in its medical residency
10 training program.

11 (2) HOSPITALS AFFECTED.—A hospital de-
12 scribed in this subsection is a hospital that did not
13 pay FICA taxes with respect to interns and resi-
14 dents in its medical residency training program dur-
15 ing the hospital's base cost reporting period, but is
16 required to pay FICA taxes or make contributions to
17 a retirement system described in paragraph (1) with
18 respect to such interns and residents because of the
19 amendments made by section 11332(b) of OBRA-
20 1990.

21 (3) DEFINITIONS.—In this subsection:

22 (A) the "base cost reporting period" for a
23 hospital is the hospital's cost reporting period
24 that began during fiscal year 1984.

1 (B) The term "FICA taxes" means, with
2 respect to a hospital, the taxes under section
3 3111 of the Internal Revenue Code of 1986.

4 (b) PUBLICLY-FUNDED FAMILY PRACTICE RESI-
5 DENCY PROGRAMS.—

6 (1) IN GENERAL.—Section 1886(h)(5) (42
7 U.S.C. 1395ww(h)(5)) is amended by adding at the
8 end the following new subparagraph:

9 “(H) ADJUSTMENTS FOR CERTAIN FAMILY
10 PRACTICE RESIDENCY PROGRAMS.—

11 “(i) IN GENERAL.—In the case of an
12 approved medical residency training pro-
13 gram (meeting the requirements of clause
14 (ii)) of a hospital which received payments
15 from the United States, a State, or a polit-
16 ical subdivision of a State or an instrumen-
17 tality of such a State or political subdivi-
18 sion (other than payments under this title
19 or a State plan under title XIX) for the
20 program during the cost reporting period
21 that began during fiscal year 1984, the
22 Secretary shall—

23 “(I) provide for an average
24 amount under paragraph (2)(A) that
25 takes into account the Secretary's es-

1 timate of the amount that would have
2 been recognized as reasonable under
3 this title if the hospital had not re-
4 ceived such payments, and

5 “(II) reduce the payment amount
6 otherwise provided under this sub-
7 section in an amount equal to the pro-
8 portion of such program payments
9 during the cost reporting period in-
10 volved that is allocable to this title.

11 “(ii) ADDITIONAL REQUIREMENTS.—

12 A hospital’s approved medical residency
13 program meets the requirements of this
14 clause if—

15 “(I) the program is limited to
16 training for family and community
17 medicine;

18 “(II) the program is the only ap-
19 proved medical residency program of
20 the hospital; and

21 “(III) the average amount deter-
22 mined under paragraph (2)(A) for the
23 hospital (as determined without re-
24 gard to the increase in such amount

1 described in clause (i)(I)) does not ex-
 2 ceed \$10,000.”.

3 (2) EFFECTIVE DATE.—The amendment made
 4 by paragraph (1) shall apply to payments under sec-
 5 tion 1886(h) of the Social Security Act for cost re-
 6 porting periods beginning on or after October 1,
 7 1990.

8 (c) PREVENTIVE CARE SERVICES AS PART OF INI-
 9 TIAL RESIDENCY PERIOD.—

10 (1) ELIGIBILITY OF PREVENTIVE CARE RESI-
 11 DENCY PROGRAMS FOR EXPANDED INITIAL RESI-
 12 DENCY PERIODS.—Section 1886(h)(5)(F)(ii) (42
 13 U.S.C. 1395ww(h)(5)(F)(ii)) is amended by insert-
 14 ing after “fellowship program” the following: “or a
 15 preventive care residency or fellowship program”.

16 (2) EFFECTIVE DATE.—The amendment made
 17 by paragraph (1) shall apply to cost reporting peri-
 18 ods beginning on or after October 1, 1993.

19 **SEC. 303. END STAGE RENAL DISEASE.**

20 (a) COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.—

21 (1) IN GENERAL.—Section 1861(s)(2)(J) (42
 22 U.S.C. 1395x(s)(2)(J)) is amended by striking
 23 “title, within” and all that follows and inserting the
 24 following: “title, but only in the case of drugs
 25 furnished—

“(i) before 1994, within 12 months after the date of the transplant procedure,

“(ii) during 1994, within 18 months after the date of the transplant procedure,

“(iii) during 1995, within 24 months after the date of the transplant procedure,

“(iv) during 1996, within 30 months after the date of the transplant procedure, and

“(v) during any year after 1997, within 36 months after the date of the transplant procedure;”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this section.

(b) PAYMENT FOR ERYTHROPOIETIN.—

(1) IN GENERAL.—Section 1881(b)(11)(B)(ii)(I) (42 U.S.C. 1395rr(b)(11)(B)(ii)(I)) is amended—

(A) by striking “1991” and inserting “1994”; and

(B) by striking “\$11” and inserting “\$10”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to erythropoietin furnished on or after January 1, 1994.

1 (c) HOME DIALYSIS DEMONSTRATION TECHNICAL
2 CORRECTION.—

3 (1) IN GENERAL.—Section 4202 of OBRA-
4 1990 is amended—

5 (A) in subsection (b)(1)(A), by striking
6 “home hemodialysis staff assistant” and insert-
7 ing “qualified home hemodialysis staff assistant
8 (as described in subsection (d))”;

9 (B) in subsection (b)(2)(B)(ii)(I), by strik-
10 ing “(as adjusted to reflect differences in area
11 wage levels);

12 (C) in subsection (c)(1)(A), by striking
13 “skilled”; and

14 (D) in subsection (c)(1)(E), by striking
15 “(b)(4)” and inserting “(b)(2)”.

16 (2) EFFECTIVE DATE.—The amendments made
17 by paragraph (1) shall take effect as if included in
18 the enactment of OBRA-1990.

19 **SEC. 304. MEDICARE SECONDARY PAYER.**

20 (a) SECONDARY PAYER EXEMPTION FOR MEMBERS
21 OF RELIGIOUS ORDERS.—Effective as if included in the
22 enactment of OBRA-1989, section 6202(e)(2) of such Act
23 is amended by adding at the end the following: “Such
24 amendment also shall apply to items and services fur-
25 nished before such date with respect to secondary payor

1 cases which the Secretary of Health and Human Services
2 had not identified as of such date.”.

3 (b) IMPROVING IDENTIFICATION OF MEDICARE SEC-
4 ONDARY PAYER SITUATIONS.—

5 (1) SURVEY OF BENEFICIARIES.—

6 (A) IN GENERAL.—Section 1862(b)(5) (42
7 U.S.C. 1395y(b)(5)) is amended by adding at
8 the end the following new subparagraph:

9 “(D) OBTAINING INFORMATION FROM
10 BENEFICIARIES.—Before an individual applies
11 for benefits under part A or enrolls under part
12 B, the Administrator shall mail the individual a
13 questionnaire to obtain information on whether
14 the individual is covered under a primary plan
15 and the nature of the coverage provided under
16 the plan, including the name, address, and iden-
17 tifying number of the plan.”.

18 (B) DISTRIBUTION OF QUESTIONNAIRE BY
19 CONTRACTOR.—The Secretary of Health and
20 Human Services shall enter into an agreement
21 with an entity not later than November 1,
22 1993, to distribute the questionnaire described
23 in section 1862(b)(5)(D) of the Social Security
24 Act (as added by subparagraph (A)).

1 (C) NO MEDICARE SECONDARY PAYOR DE-
2 NIAL BASED ON FAILURE TO COMPLETE QUES-
3 TIONNAIRE.—Section 1862(b)(2) (42 U.S.C.
4 1395y(b)(2)) is amended by adding at the end
5 the following new subparagraph:

6 “(C) TREATMENT OF QUESTIONNAIRES.—
7 The Secretary may not fail to make payment
8 under subparagraph (A) solely on the ground
9 that an individual failed to complete a question-
10 naire concerning the existence of a primary
11 plan.”.

12 (2) MANDATORY SCREENING BY PROVIDERS
13 AND SUPPLIERS UNDER PART B.—

14 (A) IN GENERAL.—Section 1862(b) (42
15 U.S.C. 1395y(b)) is amended by adding at the
16 end the following new paragraph:

17 “(6) SCREENING REQUIREMENTS FOR PROVID-
18 ERS AND SUPPLIERS.—

19 “(A) IN GENERAL.—Notwithstanding any
20 other provision of this title, no payment may be
21 made for any item or service furnished under
22 part B unless the entity furnishing such item or
23 service completes (to the best of its knowledge
24 and on the basis of information obtained from
25 the individual to whom the item or service is

1 furnished) the portion of the claim form relat-
2 ing to the availability of other health benefit
3 plans.

4 “(B) PENALTIES.—An entity that know-
5 ingly, willfully, and repeatedly fails to complete
6 a claim form in accordance with subparagraph
7 (A) or provides inaccurate information relating
8 to the availability of other health benefit plans
9 on a claim form under such subparagraph shall
10 be subject to a civil money penalty of not to ex-
11 ceed \$2,000 for each such incident. The provi-
12 sions of section 1128A (other than subsections
13 (a) and (b)) shall apply to a civil money penalty
14 under the previous sentence in the same man-
15 ner as such provisions apply to a penalty or
16 proceeding under section 1128A(a).”.

17 (B) EFFECTIVE DATE.—The amendment
18 made by subparagraph (A) shall apply with re-
19 spect to items and services furnished on or
20 after July 1, 1993.

21 (c) IMPROVEMENTS IN RECOVERY OF PAYMENTS
22 FROM PRIMARY PAYERS.—

23 (1) SUBMISSION OF REPORTS ON EFFORTS TO
24 RECOVER ERRONEOUS PAYMENTS.—

1 (A) FISCAL INTERMEDIARIES UNDER PART

2 A.—Section 1816 (42 U.S.C. 1396h) is amend-
3 ed by adding at the end the following new sub-
4 section:

5 “(k) An agreement with an agency or organization
6 under this section shall require that such agency or orga-
7 nization submit an annual report to the Secretary describ-
8 ing the steps taken to recover payments made for items
9 or services for which payment has been or could be made
10 under a primary plan (as defined in section
11 1862(b)(2)(A)).”.

12 (B) CARRIERS UNDER PART B.—Section
13 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is
14 amended—

15 (i) by striking “and” at the end of
16 subparagraphs (G) and (H); and

17 (ii) by inserting after subparagraph
18 (H) the following new subparagraph:

19 “(I) will submit annual reports to the Secretary
20 describing the steps taken to recover payments made
21 under this part for items or services for which pay-
22 ment has been or could be made under a primary
23 plan (as defined in section 1862(b)(2)(A)).”.

24 (2) REQUIREMENTS UNDER CARRIER PERFORM-
25 ANCE EVALUATION PROGRAM.—

1 (A) FISCAL INTERMEDIARIES UNDER PART

2 A.—Section 1816(f)(1)(A) (42 U.S.C.
3 1396h(f)(1)(A)) is amended by striking “proc-
4 essing” and inserting “processing (including the
5 agency’s or organization’s success in recovering
6 payments made under this title for services for
7 which payment has been or could be made
8 under a primary plan (as defined in section
9 1862(b)(2)(A)))”.

10 (B) CARRIERS UNDER PART B.—Section

11 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended
12 by adding at the end the following new sub-
13 paragraph:

14 “(D) In addition to any other standards and criteria
15 established by the Secretary for evaluating carrier per-
16 formance under this paragraph relating to avoiding erro-
17 neous payments, the Secretary shall establish standards
18 and criteria relating to the carrier’s success in recovering
19 payments made under this part for items or services for
20 which payment has been or could be made under a pri-
21 mary plan (as defined in section 1862(b)(2)(A)).”.

22 (3) DEADLINE FOR REIMBURSEMENT BY PRI-
23 MARY PLANS.—

24 (A) IN GENERAL.—Section
25 1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i))

1 is amended by adding at the end the following
2 sentence: "If reimbursement is not made to the
3 appropriate Trust Fund before the expiration of
4 the 60-day period that begins on the date such
5 notice or other information is received, the Sec-
6 retary may charge interest (beginning with the
7 date on which the notice or other information
8 is received) on the amount of the reimburse-
9 ment until reimbursement is made (at a rate
10 determined by the Secretary in accordance with
11 regulations of the Secretary of the Treasury ap-
12 plicable to charges for late payments).".

13 (B) CONFORMING AMENDMENT.—The
14 heading of clause (i) of section 1862(b)(2)(B) is
15 amended to read as follows: "REPAYMENT RE-
16 QUIRED.—".

17 (C) EFFECTIVE DATE.—The amendments
18 made by this paragraph shall apply to payments
19 for items and services furnished on or after the
20 date of the enactment of this Act.

21 (4) EFFECTIVE DATE.—The amendments made
22 by paragraphs (1) and (2) shall apply to contracts
23 with fiscal intermediaries and carriers under title
24 XVIII of the Social Security Act for years beginning
25 with 1993.

1 (d) MISCELLANEOUS AND TECHNICAL CORREC-
2 TIONS.—

3 (1) The sentence in section 1862(b)(1)(C)
4 added by section 4203(c)(1)(B) of OBRA-1990 is
5 amended—

6 (A) by striking “on or before January 1,
7 1996,” and inserting “before January 1,
8 1996”; and

9 (B) by striking “clauses (i) and (ii)” and
10 inserting “this subparagraph”.

11 (2) Effective as if included in the enactment of
12 OBRA-1989, section 1862(b)(1) is amended—

13 (A) in subparagraphs (A)(v) and
14 (B)(iv)(II), by inserting “, without regard to
15 section 5000(d) of such Code” before the period
16 at the end of each subparagraph;

17 (B) in subparagraph (A)(iii), by striking
18 “current calendar year or the preceding cal-
19 endar year” and inserting “current calendar
20 year and the preceding calendar year”; and

21 (C) in the matter in subparagraph (C)
22 after clause (ii), by striking “taking into ac-
23 count that” and inserting “paying benefits sec-
24 ondary to this title when”.

1 (3) Section 4203(c)(2) of OBRA-1990 is
2 amended—

3 (A) by striking “the application of clause
4 (iii)” and inserting “the second sentence”;

5 (B) by striking “on individuals” and all
6 that follows through “section 226A of such
7 Act”;

8 (C) in clause (ii), by striking “clause” and
9 inserting “sentence”;

10 (D) in clause (v), by adding “and” at the
11 end; and

12 (E) in clause (vi)—

13 (i) by inserting “of such Act” after
14 “1862(b)(1)(C)”, and

15 (ii) by striking the period at the end
16 and inserting the following: “, without re-
17 gard to the number of employees covered
18 by such plans.”.

19 (4) Section 4203(d) of OBRA-1990 is amended
20 by striking “this subsection” and inserting “this sec-
21 tion”.

22 (5) Except as provided in paragraph (2), the
23 amendments made by this subsection shall be effec-
24 tive as if included in the enactment of OBRA-1990.

1 **SEC. 305. IMPROVED OUTREACH FOR QUALIFIED MEDI-**
2 **CARE BENEFICIARIES.**

3 The Secretary of Health and Human Services shall
4 establish and implement a method for obtaining informa-
5 tion from newly eligible medicare beneficiaries that may
6 be used to determine whether such beneficiaries may be
7 eligible for medical assistance for medicare cost-sharing
8 under State medicaid plans as qualified medicare bene-
9 ficiaries, and for transmitting such information to the
10 State in which such a beneficiary resides.

11 **SEC. 306. SOCIAL HEALTH MAINTENANCE ORGANIZATIONS.**

12 (a) **EXTENSION OF CURRENT WAIVERS.**—Section
13 4018(b) of OBRA-1987, as amended by OBRA-1990, is
14 amended—

15 (1) in paragraph (1) by striking “December 31,
16 1995” and inserting “December 31, 1997”; and

17 (2) in paragraph (4) by striking “March 31,
18 1996” and inserting “March 31, 1998”.

19 (b) **EXPANSION OF DEMONSTRATIONS.**—Section
20 2355 of the Deficit Reduction Act of 1984 is amended—

21 (1) in the last sentence of subsection (a) by
22 striking “12 months” and inserting “36 months”;
23 and

24 (2) in subsection (b)(1)(B)—

25 (A) by striking “or” at the end of clause
26 (iii); and

1 (B) by redesignating clause (iv) as clause
2 (v) and inserting after clause (iii) the following
3 new clause:

4 “(iv) integrating acute and chronic
5 care management for patients with end-
6 stage renal disease through expanded com-
7 munity care case management services
8 (and for purposes of a demonstration
9 project conducted under this clause, any
10 requirement under a waiver granted under
11 this section that a project disenroll individ-
12 uals who develop end-stage renal disease
13 shall not apply); or”.

14 (c) EXPANSION OF NUMBER OF MEMBERS PER
15 SITE.—The Secretary of Health and Human Services may
16 not impose a limit of less than 12,000 on the number of
17 individuals that may participate in a project conducted
18 under section 2355 of the Deficit Reduction Act of 1984.

19 (d) MISCELLANEOUS AND TECHNICAL CORREC-
20 TIONS.—

21 (1) The section following section 4206 of
22 OBRA-1990 is amended by striking “SEC. 4027.”
23 and inserting “SEC. 4207.”, and in this subtitle is
24 referred to as section 4207 of OBRA-1990.

1 (2) Section 2355(b)(1)(B) of the Deficit Reduc-
2 tion Act of 1984, as amended by section
3 4207(b)(4)(B)(ii) of OBRA-1990, is amended—

4 (A) by striking “12907(c)(4)(A)” and in-
5 serting “4207(b)(4)(B)(i)”, and

6 (B) by striking “feasibilitly” and inserting
7 “feasibility”.

8 (3) Section 4207(b)(4)(B)(iii)(III) of OBRA-
9 1990 is amended by striking the period at the end
10 and inserting a semicolon.

11 (4) Subsections (c)(3) and (e) of section 2355
12 of the Deficit Reduction Act of 1984, as amended by
13 section 4207(b)(4)(B) of OBRA-1990, are each
14 amended by striking “12907(c)(4)(A)” each place it
15 appears and inserting “4207(b)(4)(B)”.

16 (5) Section 4207(c)(2) of OBRA-1990 is
17 amended by striking “the Committee on Ways and
18 Means” each place it appears and inserting “the
19 Committees on Ways and Means and Energy and
20 Commerce”.

21 (6) Section 4207(d) of OBRA-1990 is amended
22 by redesignating the second paragraph (3) (relating
23 to effective date) as paragraph (4).

24 (7) Section 4207(i)(2) of OBRA-1990 is
25 amended—

1 (A) by striking the period at the end of
2 clause (iii) and inserting a semicolon, and

3 (B) in clause (v), by striking “residents”
4 and inserting “patients”.

5 (8) Section 4207(j) of OBRA-1990 is amended
6 by striking “title” each place it appears and insert-
7 ing “subtitle”.

8 (e) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect as if included in the enact-
10 ment of OBRA-90.

11 **SEC. 307. PEER REVIEW ORGANIZATIONS.**

12 (a) REPEAL OF PRO PRECERTIFICATION REQUIRE-
13 MENT FOR CERTAIN SURGICAL PROCEDURES.—

14 (1) IN GENERAL.—Section 1164 (42 U.S.C.
15 1320c-13) is repealed.

16 (2) CONFORMING AMENDMENTS.—

17 (A) Section 1154 (42 U.S.C. 1320c-3) is
18 amended—

19 (i) in subsection (a), by striking para-
20 graph (12), and

21 (ii) in subsection (d), by striking
22 “(and except as provided in section
23 1164)”.

24 (B) Section 1833 (42 U.S.C. 1395l) is
25 amended—

1 (i) in subsection (a)(1)(D)(i), by striking
2 “, or for tests furnished in connection
3 with obtaining a second opinion required
4 under section 1164(c)(2) (or a third opinion,
5 if the second opinion was in disagreement
6 with the first opinion)”;

7 (ii) in subsection (a)(1), by striking
8 clause (G);

9 (iii) in subsection (a)(2)(A), by striking
10 “to items and services (other than clinical
11 diagnostic laboratory tests) furnished
12 in connection with obtaining a second opinion
13 required under section 1164(c)(2) (or a
14 third opinion, if the second opinion was in
15 disagreement with the first opinion),”;
16

(iv) in subsection (a)(2)(D)(i)—

17 (I) by striking “basis,” and inserting
18 “basis or”, and

19 (II) by striking “, or for tests
20 furnished in connection with obtaining
21 a second opinion required under section
22 1164(c)(2) (or a third opinion, if
23 the second opinion was in disagreement
24 with the first opinion))”;

1 (v) in subsection (a)(3), by striking
2 “and for items and services furnished in
3 connection with obtaining a second opinion
4 required under section 1164(c)(2), or a
5 third opinion, if the second opinion was in
6 disagreement with the first opinion)”; and
7 (vi) in the first sentence of subsection
8 (b)—

9 (I) by striking “(3)” and insert-
10 ing “and (3)”, and

11 (II) by striking “, and (4)” and
12 all that follows up to the period at the
13 end.

14 (C) Section 1834(g)(1)(B) (42 U.S.C.
15 1395m(g)(1)(B)) is amended by striking “and
16 for items and services furnished in connection
17 with obtaining a second opinion required under
18 section 1164(c)(2), or a third opinion, if the
19 second opinion was in disagreement with the
20 first opinion)”.

21 (D) Section 1862(a) (42 U.S.C. 1395y(a))
22 is amended—

23 (i) by adding “or” at the end of para-
24 graph (14),

(ii) by striking “; or” at the end of paragraph (15) and inserting a period, and

(iii) by striking paragraph (16).

(E) The third sentence of section 1866(a)(2)(A) (42 U.S.C. 1395w(a)(2)(A)) is amended by striking “, with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services provided on or after the date of the enactment of this Act.

(b) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) The third sentence of section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended by striking “whehter” and inserting “whether”.

(2) Section 1154(a)(9)(B) (42 U.S.C. 1320c-3(a)(9)(B)) is amended by striking “this subsection” and inserting “section 1156(a)”.

(3) Section 4205(d)(2)(B) of OBRA-1990 is amended by striking “amendments” and inserting “amendment”.

1 (4) Section 1160(d) (42 U.S.C. 1320c-9(d)) is
2 amended by striking "subpena" and inserting "subpoena".

3 (5) Section 4205(e)(2) of OBRA-1990 is amended
4 by striking "amendments" and inserting "amendment"
5 and by striking "all".

6 (6)(A) Except as provided in subparagraph (B), the
7 amendments made by this subsection shall take effect as
8 if included in the enactment of OBRA-1990.

9 (B) The amendment made by paragraph (2) (relating
10 to the requirement on reporting of information to State
11 licensing boards) shall take effect on the date of the enact-
12 ment of this Act.

13 **SEC. 308. HOSPICE INFORMATION TO HOME HEALTH BENE-**
14 **FICIARIES.**

15 (a) IN GENERAL.—Section 1891(a)(1) (42 U.S.C.
16 1395bbb(a)(1)) is amended by adding at the end the fol-
17 lowing new subparagraph:

18 “(H) The right, in the case of a resident
19 who is entitled to benefits under this title, to be
20 fully informed orally and in writing (at the time
21 of coming under the care of the agency) of the
22 entitlement of individuals to hospice care under
23 section 1812(a)(4) (unless there is no hospice
24 program providing hospice care for which pay-
25 ment may be made under this title within the

1 geographic area of the facility and it is not the
2 common practice of the agency to refer patients
3 to hospice programs located outside such geo-
4 graphic area).”.

5 (b) **EFFECTIVE DATE.**—The amendment made by
6 subsection (a) shall apply to services furnished on or after
7 the first day of the first month beginning more than one
8 year after the date of the enactment of this Act.

9 **SEC. 309. INTEREST PAYMENTS.**

10 (a) **IN GENERAL.**—Sections 1816(c)(2)(B)(ii)(IV)
11 and 1842(c)(2)(B)(ii)(IV) of the Social Security Act shall
12 be applied with respect to claims received in the 12-month
13 period beginning October 1, 1992, by substituting “30 cal-
14 endar days” for “24 calendar days” and “17 calendar
15 days”.

16 (b) **EFFECTIVE DATE.**—Subsection (a) shall be in ef-
17 fect during the period that begins on the date of the enact-
18 ment of this Act and ends on September 30, 1993.

19 **SEC. 310. CLARIFICATION OF JUDICIAL REVIEW RIGHTS.**

20 (a) **IN GENERAL.**—Section 1869(b) (42 U.S.C.
21 1395ff(b)) is amended by adding at the end the following
22 new paragraph:

23 “(6) Nothing in this subsection (including paragraph
24 (5)) shall be construed as requiring a person to file a claim
25 with, or obtain findings or a decision of, the Secretary

1 prior to seeking judicial review of an issue under this sub-
 2 section, if the issue involves no material issues of fact in
 3 dispute and involves a challenge to the validity of a regula-
 4 tion or instruction which relates to a method for determin-
 5 ing the amount of payment under part B.”.

6 (b) **EFFECTIVE DATE.**—The amendment made by
 7 subsection (a) shall apply as if included in the enactment
 8 of section 9313 of OBRA-1986.

9 **SEC. 311. ADJUSTMENTS TO DISCRETIONARY SPENDING**
 10 **LIMITS.**

11 (a) **ADJUSTMENTS.**—Section 251(b)(2) of the Bal-
 12 anced Budget and Emergency Deficit Control Act of 1985
 13 is amended by redesignating subparagraphs (E) and (F)
 14 as subparagraphs (F) and (G), respectively, and by insert-
 15 ing after subparagraph (D) the following new subpara-
 16 graph:

17 “(E) **MEDICARE ADMINISTRATIVE**
 18 **COSTS.**—To the extent that appropriations are
 19 enacted that provide additional new budget au-
 20 thority (as compared with a base level of
 21 \$1,526,000,000 for new budget authority) for
 22 the administration of the Medicare program by
 23 fiscal intermediaries and carriers pursuant to
 24 sections 1816 and 1842(a) of title XVIII of the
 25 Social Security Act, the adjustment for that

year shall be that amount, but shall not exceed—

“(i) for fiscal year 1994,
\$198,000,000 in new budget authority and
\$198,000,000 in outlays; and

“(ii) for fiscal year 1995,
\$220,000,000 in new budget authority and
\$220,000,000 in outlays; and

the prior-year outlays resulting from these appropriations of budget authority and additional adjustments equal to the sum of the maximum adjustments that could have been made in preceding fiscal years under this subparagraph.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 603(a) of the Congressional Budget Act of 1974 is amended by striking “section 251(b)(2)(E)(i)” and inserting “section 251(b)(2)(F)(i)”.

(2) Section 606(d) of the Congressional Budget Act of 1974 is amended—

(A) in paragraph (1)(A) by striking “section 251(b)(2)(E)(i)” and inserting “section 251(b)(2)(F)(i)”; and

(B) in paragraph (2), by inserting “251(b)(2)(E),” after “251(b)(2)(D),”.

1 SEC. 312. HEALTH MAINTENANCE ORGANIZATIONS.

2 (a) ADJUSTMENT IN MEDICARE CAPITATION PAY-
3 MENTS TO ACCOUNT FOR REGIONAL VARIATIONS IN AP-
4 PPLICATION OF SECONDARY PAYOR PROVISIONS.—

5 (1) IN GENERAL.—Section 1876(a)(4) (42
6 U.S.C. 1395mm(a)(4)) is amended by adding at the
7 end the following new sentence: “In establishing the
8 adjusted average per capita cost for a geographic
9 area, the Secretary shall take into account the dif-
10 ferences between the proportion of individuals in the
11 area with respect to whom there is a group health
12 plan that is a primary payor (within the meaning of
13 section 1862(b)(2)(A)) compared to the proportion
14 of all such individuals with respect to whom there is
15 such a group health plan.”.

16 (2) EFFECTIVE DATE.—The amendment made
17 by paragraph (1) shall apply to contracts entered
18 into for years beginning with 1994.

19 (b) REVISIONS IN THE PAYMENT METHODOLOGY
20 FOR RISK CONTRACTORS.—Section 4204(b) of OBRA-
21 1990 is amended to read as follows:

22 “(b) REVISIONS IN THE PAYMENT METHODOLOGY
23 FOR RISK CONTRACTORS.—(1)(A) Not later than July 1,
24 1993, the Secretary of Health and Human Services (in
25 this subsection referred to as the “Secretary”) shall sub-
26 mit a proposal to the Congress that provides for revisions

1 to the payment method to be applied in years beginning
2 with 1995 for organizations with a risk-sharing contract
3 under section 1876(g) of the Social Security Act.

4 “(B) In proposing the revisions required under sub-
5 paragraph (A) the Secretary shall consider—

6 “(i) the difference in costs associated with med-
7 icare beneficiaries with differing health status and
8 demographic characteristics; and

9 “(ii) the effects of using alternative geographic
10 classifications on the determinations of costs associ-
11 ated with beneficiaries residing in different areas.

12 “(2) Not later than October 1, 1993, the Comptroller
13 General shall review the proposal made pursuant to para-
14 graph (1), and shall report to Congress on the appro-
15 priateness of the proposed modifications.”.

16 (c) MISCELLANEOUS AND TECHNICAL CORREC-
17 TIONS.—(1) Section 1876(a)(3) (42 U.S.C.
18 1395mm(a)(3)) is amended by striking “subsection
19 (c)(7)” and inserting “subsections (c)(2)(B)(ii) and
20 (c)(7)”.

21 (2) Section 4204(c)(3) of OBRA-1990 is amended
22 by striking “for 1991” and inserting “for years beginning
23 with 1991”.

24 (3) Section 4204(d)(2) of OBRA-1990 is amended
25 by striking “amendment” and inserting “amendments”.

1 (4) Section 1876(a)(1)(E)(ii)(I) (42 U.S.C.
2 1395mm(a)(1)(E)(ii)(I)) is amended by striking the
3 comma after “contributed to”.

4 (5) Section 4204(e)(2) of OBRA-1990 is amended
5 by striking “(which has a risk-sharing contract under sec-
6 tion 1876 of the Social Security Act)”.

7 (6) Section 4204(f)(4) of OBRA-1990 is amended by
8 striking “final”.

9 (7) Section 1862(b)(3)(C) (42 U.S.C.
10 1395y(b)(3)(C)) is amended—

11 (A) in the heading, by striking “PLAN” and in-
12 serting “PLAN OR A LARGE GROUP HEALTH PLAN”;

13 (B) by striking “group health plan” and insert-
14 ing “group health plan or a large group health
15 plan”;

16 (C) by striking “, unless such incentive is also
17 offered to all individuals who are eligible for cov-
18 erage under the plan”; and

19 (D) by striking “the first sentence of subsection
20 (a) and other than subsection (b)” and inserting
21 “subsections (a) and (b)”.

22 (8) The amendments made by this subsection shall
23 take effect as if included in the enactment of OBRA-1990.

1 SEC. 313. TREATMENT OF CERTAIN STATE HEALTH CARE
2 PROGRAMS.

3 Section 514(b)(5) of the Employee Retirement In-
4 come Security Act of 1974 (29 U.S.C. 1144(b)(5)) is
5 amended to read as follows:

6 “(5)(A) Except as provided in subparagraphs
7 (B) and (C), subsection (a) shall not apply to the
8 Hawaii Prepaid Health Care Act (Haw. Rev. Stat.
9 §§ 393-1 through 393-51).

10 “(B) Nothing in subparagraph (A) shall be con-
11 strued to exempt from subsection (a) any State tax
12 law relating to employee benefits plans.

13 “(C) If the Secretary of Labor notifies the Gov-
14 ernor of the State of Hawaii that as the result of
15 an amendment to the Hawaii Prepaid Health Care
16 Act enacted after October 5, 1992—

17 “(i) the proportion of the population with
18 health care coverage under such Act is less than
19 such proportion on such date, or

20 “(ii) the level of benefit coverage provided
21 under such Act is less than the actuarial equiv-
22 alent of such level of coverage on such date,
23 subparagraph (A) shall not apply with respect to the
24 application of such amendment to such Act after the
25 date of such notification.”.

1 **SEC. 314. MISCELLANEOUS AND TECHNICAL CORRECTIONS.**

2 (a) **SURVEY AND CERTIFICATION REQUIREMENTS.**—

3 (1) Section 1864 (42 U.S.C. 1395aa) is amended—

4 (A) in subsection (e), by striking “title” and in-
5 serting “title (other than any fee relating to section
6 353 of the Public Health Service Act)”; and

7 (B) in the first sentence of subsection (a), by
8 striking “1861(s) or” and all that follows through
9 “Service Act,” and inserting “1861(s),”.

10 (2) An agreement made by the Secretary of Health
11 and Human Services with a State under section 1864(a)
12 of the Social Security Act may include an agreement that
13 the services of the State health agency or other appro-
14 priate State agency (or the appropriate local agencies) will
15 be utilized by the Secretary for the purpose of determining
16 whether a laboratory meets the requirements of section
17 353 of the Public Health Service Act.

18 (b) **OTHER MISCELLANEOUS AND TECHNICAL PRO-**
19 **VISIONS.**—(1) Section 1833 (42 U.S.C. 1395l) is amended
20 by redesignating the subsection (r) added by section
21 4206(b)(2) of OBRA-1990 as subsection (s).

22 (2) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is
23 amended by striking “1833(r)” and inserting “1833(s)”.

24 (3) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is
25 amended by moving subparagraph (O), as redesignated by

1 section 10149(f)(8)(B)(iii)(II) of this title, two ems to the
2 left.

3 (4) Section 1881(b)(1)(C) (42 U.S.C.
4 1395rr(b)(1)(C)) is amended by striking "1861(s)(2)(Q)"
5 and inserting "1861(s)(2)(P)".

6 (5) Section 4201(d)(2) of OBRA-1990 is amended
7 by striking "(B) by striking", "(C) by striking", and "(3
8 by adding" and inserting "(i) by striking", "(ii) by strik-
9 ing", and "(B) by adding", respectively.

10 (6)(A) Section 4207(a)(1) of OBRA-1990 is amend-
11 ed by adding closing quotation marks and a period after
12 "such review."

13 (B) Section 4207(a)(4) of OBRA-1990 is amended
14 by striking "this subsection" and inserting "paragraphs
15 (2) and (3)".

16 (C) Section 4207(b)(1) of OBRA-1990 is amended
17 by striking "section 3(7)" and inserting "section
18 601(a)(1)".

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect as if included in the enact-
21 ment of OBRA-1990.

1 **TITLE IV—PROVISIONS RELAT-**
2 **ING TO MEDICARE SUPPLE-**
3 **MENTAL INSURANCE POLI-**
4 **CIES**

5 **SEC. 401. STANDARDS FOR MEDICARE SUPPLEMENTAL IN-**
6 **SURANCE POLICIES.**

7 (a) **SIMPLIFICATION OF MEDICARE SUPPLEMENTAL**
8 **POLICIES.—**

9 (1) Section 4351 of OBRA-1990 is amended by
10 striking “(a) IN GENERAL.—”.

11 (2) Section 1882(p) (42 U.S.C. 1395ss(p)) is
12 amended—

13 (A) in paragraph (1)(A)—

14 (i) by striking “promulgates” and in-
15 serting “changes the revised NAIC Model
16 Regulation (described in subsection (m)) to
17 incorporate”,

18 (ii) by striking “(such limitations, lan-
19 guage, definitions, format, and standards
20 referred to collectively in this subsection as
21 ‘NAIC standards’), and

22 (iii) by striking “included a reference
23 to the NAIC standards” and inserting
24 “were a reference to the revised NAIC
25 Model Regulation as changed under this

1 subparagraph (such changed regulation re-
2 ferred to in this section as the '1991 NAIC
3 Model Regulation')";

4 (B) in paragraph (1)(B)—

5 (i) by striking "promulgate NAIC
6 standards" and inserting "make the
7 changes in the revised NAIC Model Regu-
8 lation",

9 (ii) by striking "limitations, language,
10 definitions, format, and standards de-
11 scribed in clauses (i) through (iv) of such
12 subparagraph (in this subsection referred
13 to collectively as 'Federal standards')" and
14 inserting "a regulation", and

15 (iii) by striking "included a reference
16 to the Federal standards" and inserting
17 "were a reference to the revised NAIC
18 Model Regulation as changed by the Sec-
19 retary under this subparagraph (such
20 changed regulation referred to in this sec-
21 tion as the '1991 Federal Regulation')";

22 (C) in paragraph (1)(C)(i), by striking
23 "NAIC standards or the Federal standards"
24 and inserting "1991 NAIC Model Regulation or
25 1991 Federal Regulation";

1 (D) in paragraphs (1)(C)(ii)(I), (1)(E),
2 (2), and (9)(B), by striking “NAIC or Federal
3 standards” and inserting “1991 NAIC Model
4 Regulation or 1991 Federal Regulation”;

5 (E) in paragraph (2)(C), by striking
6 “(5)(B)” and inserting “(4)(B)”;

7 (F) in paragraph (4)(A)(i), by inserting
8 “or paragraph (6)” after “(B)”;

9 (G) in paragraph (4), by striking “applica-
10 ble standards” each place it appears and insert-
11 ing “applicable 1991 NAIC Model Regulation
12 or 1991 Federal Regulation”;

13 (H) in paragraph (6), by striking “in re-
14 gard to the limitation of benefits described in
15 paragraph (4)” and inserting “described in
16 clauses (i) through (iii) of paragraph (1)(A)”;

17 (I) in paragraph (7), by striking “policy-
18 holder” and inserting “policyholders”;

19 (J) in paragraph (8), by striking “after the
20 effective date of the NAIC or Federal standards
21 with respect to the policy, in violation of the
22 previous requirements of this subsection” and
23 inserting “on and after the effective date speci-
24 fied in paragraph (1)(C) (but subject to para-
25 graph (10)), in violation of the applicable 1991

NAIC Model Regulation or 1991 Federal Regulation insofar as such regulation relates to the requirements of subsection (o) or (q) or clause (i), (ii), or (iii) of paragraph (1)(A)”;

(K) in paragraph (9), by adding at the end the following new subparagraph:

“(D) Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C).”; and

(L) in paragraph (10), by striking “this subsection” and inserting “paragraph (1)(A)(i)”.

(b) GUARANTEED RENEWABILITY.—Section 1882(q) (42 U.S.C. 1395ss(q)) is amended—

(1) in paragraph (2), by striking “paragraph (2)” and inserting “paragraph (4)”, and

(2) in paragraph (4), by striking “the succeeding issuer” and inserting “issuer of the replacement policy”.

(c) ENFORCEMENT OF STANDARDS.—

(1) Section 1882(a)(2) (42 U.S.C. 1395ss(a)(2)) is amended—

(A) in subparagraph (A), by striking “NAIC standards or the Federal standards”

1 and inserting “1991 NAIC Model Regulation or
2 1991 Federal Regulation”, and

3 (B) by striking “after the effective date of
4 the NAIC or Federal standards with respect to
5 the policy” and inserting “on and after the ef-
6 fective date specified in subsection (p)(1)(C)”.

7 (2) The sentence in section 1882(b)(1) added
8 by section 4353(e)(5) of OBRA-1990 is amended—

9 (A) by striking “The report” and inserting
10 “Each report”,

11 (B) by inserting “and requirements” after
12 “standards”,

13 (C) by striking “and” after “compliance,”,
14 and

15 (D) by striking the comma after “Commis-
16 sioners”.

17 (3) Section 1882(g)(2)(B) (42 U.S.C.
18 1395ss(g)(2)(B)) is amended by striking “Panel”
19 and inserting “Secretary”.

20 (4) Section 1882(b)(1) (42 U.S.C.
21 1395ss(b)(1)) is amended by striking “the the Sec-
22 retary” and inserting “the Secretary”.

23 (d) PREVENTING DUPLICATION.—

24 (1) Section 1882(d)(3)(A) (42 U.S.C.
25 1395ss(d)(3)(A)) is amended—

1 (A) by amending the first sentence to read
2 as follows:

3 “(i) It is unlawful for a person to sell or issue to an
4 individual entitled to benefits under part A or enrolled
5 under part B of this title—

6 “(I) a health insurance policy with knowledge
7 that the policy duplicates health benefits to which
8 the individual is otherwise entitled under this title or
9 title XIX,

10 “(II) a medicare supplemental policy with
11 knowledge that the individual is entitled to benefits
12 under another medicare supplemental policy, or

13 “(III) a health insurance policy (other than a
14 medicare supplemental policy) with knowledge that
15 the policy duplicates health benefits to which the in-
16 dividual is otherwise entitled, other than benefits to
17 which the individual is entitled under a requirement
18 of State or Federal law.”;

19 (B) by designating the second sentence as
20 clause (ii) and, in such clause, by striking “the
21 previous sentence” and inserting “clause (i)”;

22 (C) by designating the third sentence as
23 clause (iii) and, in such clause—

24 (i) by striking “the previous sentence”
25 and inserting “clause (i) with respect to

1 the sale of a medicare supplemental pol-
 2 icy", and

3 (ii) by striking "and the statement"
 4 and all that follows up to the period at the
 5 end; and

6 (D) by striking the last sentence.

7 (2) Section 1882(d)(3)(B) (42 U.S.C.
 8 1395ss(d)(3)(B)) is amended—

9 (A) in clause (ii)(II), by striking "65 years
 10 of age or older",

11 (B) in clause (iii)(I), by striking "another
 12 medicare" and inserting "a medicare",

13 (C) in clause (iii)(I), by striking "such a
 14 policy" and inserting "a medicare supplemental
 15 policy",

16 (D) in clause (iii)(II), by striking "another
 17 policy" and inserting "a medicare supplemental
 18 policy", and

19 (E) by amending subclause (III) of clause
 20 (iii) to read as follows:

21 "(III) If the statement required by clause (i) is ob-
 22 tained and indicates that the individual is entitled to any
 23 medical assistance under title XIX, the sale of the policy
 24 is not in violation of clause (i) (insofar as such clause re-
 25 lates to such medical assistance), if a State medicaid plan

1 under such title pays the premiums for the policy, or, in
2 the case of a qualified medicare beneficiary described in
3 section 1905(p)(1), if the State pays less than the full
4 amount of medicare cost-sharing as described in subpara-
5 graphs (B), (C), and (D) of section 1905(p)(3) for such
6 individual.”.

7 (3)(A) Section 1882(d)(3)(C) (42 U.S.C.
8 1395ss(d)(3)(C)) is amended—

9 (i) by striking “the selling” and inserting
10 “(i) the sale or issuance”, and

11 (ii) by inserting before the period at the
12 end the following: “, (ii) the sale or issuance of
13 a policy or plan described in subparagraph
14 (A)(i)(I) (other than a medicare supplemental
15 policy to an individual entitled to any medical
16 assistance under title XIX) under which all the
17 benefits are fully payable directly to or on be-
18 half of the individual without regard to other
19 health benefit coverage of the individual but
20 only if (for policies sold or issued more than 60
21 days after the date the statements are pub-
22 lished or promulgated under subparagraph (D))
23 there is disclosed in a prominent manner as
24 part of (or together with) the application the
25 applicable statement (specified under subpara-

graph (D)) of the extent to which benefits payable under the policy or plan duplicate benefits under this title, or (iii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(III) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual”.

(B) Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended by adding at the end the following:

“(D)(i) If—

“(I) within the 90-day period beginning on the date of the enactment of this subparagraph, the National Association of Insurance Commissioners develops (after consultation with consumer and insurance industry representatives) and submits to the Secretary a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits) which are sold to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and

1 “(II) the Secretary approves all the statements
2 submitted as meeting the requirements of subclause

3 (I),

4 each such statement shall be (for purposes of subpara-
5 graph (C)) the statement specified under this subpara-
6 graph for the type of policy involved. The Secretary shall
7 review and approve (or disapprove) all the statements sub-
8 mitted under subclause (I) within 30 days after the date
9 of their submittal. Upon approval of such statements, the
10 Secretary shall publish such statements.

11 “(ii) If the Secretary does not approve the statements
12 under clause (i) or the statements are not submitted with-
13 in the 90-day period specified in such clause, the Secretary
14 shall promulgate (after consultation with consumer and
15 insurance industry representatives and not later than 90
16 days after the date of disapproval or the end of such 90-
17 day period (as the case may be)) a statement for each
18 of the types of health insurance policies (other than medi-
19 care supplemental policies and including, as separate types
20 of policies, policies paying directly to the beneficiary fixed,
21 cash benefits) which are sold to persons entitled to health
22 benefits under this title, of the extent to which benefits
23 payable under the policy or plan duplicate benefits under
24 this title, and each such statement shall be (for purposes

1 of subparagraph (C)) the statement specified under this
2 subparagraph for the type of policy involved.”.

3 (C) The requirement of a disclosure under sec-
4 tion 1882(d)(3)(C)(ii) of the Social Security Act
5 shall not apply to an application made for a policy
6 or plan before 60 days after the date of the Sec-
7 retary of Health and Human Services publishes or
8 promulgates all the statements under section
9 1882(d)(3)(D) of such Act.

10 (4) Subparagraphs (A) and (B) of section
11 1882(q)(5)(A) are amended by striking “of the So-
12 cial Security Act”.

13 (5) The second subsection (b) of section 4354
14 of OBRA-1990 (relating to effective date) is amend-
15 ed by redesignating such subsection as subsection
16 (c).

17 (e) LOSS RATIOS AND REFUNDS OF PREMIUMS.—

18 (1) Section 1882(r) (42 U.S.C. 1395ss(r)) is
19 amended—

20 (A) in paragraph (1), by striking “or sold”
21 and inserting “or renewed (or otherwise provide
22 coverage after the date described in subsection
23 (p)(1)(C))”;

1 (B) in paragraph (1)(A), by inserting “for
2 periods after the effective date of these provi-
3 sions” after “the policy can be expected”;

4 (C) in paragraph (1)(A), by striking
5 “Commissioners,” and inserting “Commis-
6 sioners”;

7 (D) in paragraph (1)(B), by inserting be-
8 fore the period at the end the following: “,
9 treating policies of the same type as a single
10 policy for each standard package”;

11 (E) by adding at the end of paragraph (1)
12 the following: “For the purpose of calculating
13 the refund or credit required under paragraph
14 (1)(B) for a policy issued before the date speci-
15 fied in subsection (p)(1)(C), the refund or cred-
16 it calculation shall be based on the aggregate
17 benefits provided and premiums collected under
18 all such policies issued by an insurer in a State
19 (separated as to individual and group policies)
20 and shall be based only on aggregate benefits
21 provided and premiums collected under such
22 policies after the date specified in section
23 401(m)(4) of the Miscellaneous and Technical
24 Medicare Amendments of 1993.”;

1 (F) in the first sentence of paragraph
2 (2)(A), by striking "by policy number" and in-
3 serting "by standard package";

4 (G) by striking the second sentence of
5 paragraph (2)(A) and inserting the following:
6 "Paragraph (1)(B) shall not apply to a policy
7 until 12 months following issue.";

8 (H) in the last sentence of paragraph
9 (2)(A), by striking "in order" and all that fol-
10 lows through "are effective";

11 (I) by adding at the end of paragraph
12 (2)(A), the following new sentence: "In the case
13 of a policy issued before the date specified in
14 subsection (p)(1)(C), paragraph (1)(B) shall
15 not apply until 1 year after the date specified
16 in section 401(m)(4) of the Miscellaneous and
17 Technical Medicare Amendments of 1993.";

18 (J) in paragraph (2), by striking "policy
19 year" each place it appears and inserting "cal-
20 endar year";

21 (K) in paragraph (4), by striking "Feb-
22 ruary", "disallowance", "loss-ratios" each place
23 it appears, and "loss-ratio" and inserting "Oc-
24 tober", "disallowance", "loss ratios", and "loss
25 ratio", respectively;

(L) in paragraph (6)(A), by striking “issues a policy in violation of the loss ratio requirements of this subsection” and “such violation” and inserting “fails to provide refunds or credits as required in paragraph (1)(B)” and “policy issued for which such failure occurred”, respectively; and

(M) in paragraph (6)(B), by striking “to policyholders” and inserting “to the policyholder or, in the case of a group policy, to the certificate holder”.

(2) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended, in the matter after subparagraph (H), by striking “subsection (F)” and inserting “subparagraph (F)”.

(3) Section 4355(d) of OBRA-1990 is amended by striking “sold or issued” and all that follows and inserting “issued or renewed (or otherwise providing coverage after the date described in section 1882(p)(1)(C) of the Social Security Act) on or after the date specified in section 1882(p)(1)(C) of such Act.”.

(f) TREATMENT OF HMO'S.—

(1) Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by striking “a health

1 maintenance organization or other direct service or-
 2 ganization” and all that follows through “1833” and
 3 inserting “an eligible organization (as defined in sec-
 4 tion 1876(b)) if the policy or plan provides benefits
 5 pursuant to a contract under section 1876 or an ap-
 6 proved demonstration project described in section
 7 603(c) of the Social Security Amendments of 1983,
 8 section 2355 of the Deficit Reduction Act of 1984,
 9 or section 9412(b) of the Omnibus Budget Reconcili-
 10 ation Act of 1986 or, during the period beginning on
 11 the date specified in subsection (p)(1)(C) and ending
 12 on December 31, 1993, a policy or plan of an orga-
 13 nization if the policy or plan provides benefits pursu-
 14 ant to an agreement under section 1833(a)(1)(A)”.

15 (2) Section 4356(b) of OBRA-1990 is amended
 16 by striking “on the date of the enactment of this
 17 Act” and inserting “on the date specified in section
 18 1882(p)(1)(C) of the Social Security Act”.

19 (g) PRE-EXISTING CONDITION LIMITATIONS.—Sec-
 20 tion 1882(s) (42 U.S.C. 1395ss(s)) is amended—

21 (1) in paragraph (2)(A), by striking “for which
 22 an application is submitted” and inserting “in the
 23 case of an individual for whom an application is sub-
 24 mitted prior to or”,

(2) in paragraph (2)(A), by striking “in which the individual (who is 65 years of age or older) first is enrolled for benefits under part B” and inserting “as of the first day on which the individual is 65 years of age or older and is enrolled for benefits under part B”, and

(3) in paragraph (2)(B), by striking “before it” and inserting “before the policy”.

(h) MEDICARE SELECT POLICIES.—

(1) Section 1882(t) (42 U.S.C. 1395ss(t)) is amended—

(A) in paragraph (1), by inserting “medicare supplemental” after “If a”,

(B) in paragraph (1), by striking “NAIC Model Standards” and inserting “1991 NAIC Model Regulation or 1991 Federal Regulation”,

(C) in paragraph (1)(A), by inserting “or agreements” after “contracts”,

(D) in subparagraphs (E)(i) and (F) of paragraph (1), by striking “NAIC standards” and inserting “standards in the 1991 NAIC Model Regulation or 1991 Federal Regulation”, and

1 (E) in paragraph (2), by inserting “the is-
 2 suer” before “is subject to a civil money pen-
 3 alty”.

4 (2) Section 1154(a)(4)(B) (42 U.S.C. 1320c-
 5 3(a)(4)(B)) is amended—

6 (A) by inserting “that is” after “(or”, and

7 (B) by striking “1882(t)” and inserting
 8 “1882(t)(3)”.

9 (i) HEALTH INSURANCE COUNSELING.—Section
 10 4360 of OBRA-1990 is amended—

11 (1) in subsection (b)(2)(A)(ii), by striking
 12 “Act” and inserting “Act”);

13 (2) in subsection (b)(2)(D), by striking “serv-
 14 ices” and inserting “counseling”;

15 (3) in subsection (b)(2)(I), by striking “assist-
 16 ance” and inserting “referrals”;

17 (4) in subsection (c)(1), by striking “and that
 18 such activities will continue to be maintained at such
 19 level”;

20 (5) in subsection (d)(3), by striking “to the
 21 rural areas” and inserting “eligible individuals resid-
 22 ing in rural areas”;

23 (6) in subsection (e)—

24 (A) by striking “subsection (c) or (d)” and
 25 inserting “this section”,

(B) by striking "and annually thereafter, issue an annual report" and inserting "and annually thereafter during the period of the grant, issue a report",

(C) in paragraph (1), by striking "State-wide", and

(D) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(7) by redesignating the second subsection (f) (relating to authorization of appropriations for grants) as subsection (g).

(j) TELEPHONE INFORMATION SYSTEM.—

(1) Section 1804 (42 U.S.C. 1395b-2) is amended—

(A) by adding at the end of the heading the following: "; MEDICARE AND MEDIGAP INFORMATION",

(B) by inserting "(a)" after "1804.", and

(C) by adding at the end the following new subsection:

"(b) The Secretary shall provide information via a toll-free telephone number on the programs under this title."

1 (2) Section 1882(f) (42 U.S.C. 1395ss(f)) is
2 amended by adding at the end the following new
3 paragraph:

4 “(3) The Secretary shall provide information via a
5 toll-free telephone number on medicare supplemental poli-
6 cies (including the relationship of State programs under
7 title XIX to such policies).”.

8 (3) Section 1889 is repealed.

9 (k) MAILING OF POLICIES.—Section 1882(d)(4) (42
10 U.S.C. 1395ss(d)(4)) is amended—

11 (1) in subparagraph (D), by striking “, if such
12 policy” and all that follows up to the period at the
13 end, and

14 (2) by adding at the end the following new sub-
15 paragraph:

16 “(E) Subparagraph (A) shall not apply in the case
17 of an issuer who mails or causes to be mailed a policy,
18 certificate, or other matter solely to comply with the re-
19 quirements of subsection (q).”.

20 (l) EFFECTIVE DATE.—The amendments made by
21 this section shall be effective as if included in the enact-
22 ment of OBRA-1990; except that—

23 (1) the amendments made by subsection (d)(1)
24 shall take effect on the date of the enactment of this
25 Act, but no penalty shall be imposed under section

1 1882(d)(3)(A) of the Social Security Act (for an ac-
2 tion occurring after the effective date of the amend-
3 ments made by section 4354 of OBRA-1990 and be-
4 fore the date of the enactment of this Act) with re-
5 spect to the sale or issuance of a policy which is not
6 unlawful under section 1882(d)(3)(A)(i)(II) of the
7 Social Security Act (as amended by this section);

8 (2) the amendments made by subsection
9 (d)(2)(A) and by subparagraphs (A), (B), and (E)
10 of subsection (e)(1) shall be effective on the date
11 specified in subsection (m)(4); and

12 (3) the amendment made by subsection (g)(2)
13 shall take effect on July 1, 1993, and shall apply to
14 individuals who attain 65 years of age or older on
15 or after the effective date of section 1882(s)(2) of
16 the Social Security Act (and, in the case of individ-
17 uals who attained 65 years of age after such effec-
18 tive date and before July 1, 1993, and who were not
19 covered under such section before July 1, 1993, the
20 6-month period specified in that section shall begin
21 July 1, 1993).

22 (m) TRANSITION PROVISIONS.—

23 (1) IN GENERAL.—If the Secretary of Health
24 and Human Services identifies a State as requiring
25 a change to its statutes or regulations to conform its

1 regulatory program to the changes made by this sec-
2 tion, the State regulatory program shall not be con-
3 sidered to be out of compliance with the require-
4 ments of section 1882 of the Social Security Act due
5 solely to failure to make such change until the date
6 specified in paragraph (4).

7 (2) NAIC STANDARDS.—If, within 6 months
8 after the date of the enactment of this Act, the Na-
9 tional Association of Insurance Commissioners (in
10 this subsection referred to as the “NAIC”) modifies
11 its 1991 NAIC Model Regulation (adopted in July
12 1991) to conform to the amendments made by this
13 section and to delete from section 15C the exception
14 which begins with “unless”, such modifications shall
15 be considered to be part of that Regulation for the
16 purposes of section 1882 of the Social Security Act.

17 (3) SECRETARY STANDARDS.—If the NAIC
18 does not make the modifications described in para-
19 graph (2) within the period specified in such para-
20 graph, the Secretary of Health and Human Services
21 shall make the modifications described in such para-
22 graph and such modifications shall be considered to
23 be part of that Regulation for the purposes of sec-
24 tion 1882 of the Social Security Act.

25 (4) DATE SPECIFIED.—

1 (A) IN GENERAL.—Subject to subpara-
2 graph (B), the date specified in this paragraph
3 for a State is the earlier of—

4 (i) the date the State changes its stat-
5 utes or regulations to conform its regu-
6 latory program to the changes made by
7 this section, or

8 (ii) 1 year after the date the NAIC or
9 the Secretary first makes the modifications
10 under paragraph (2) or (3), respectively.

11 (B) ADDITIONAL LEGISLATIVE ACTION RE-
12 QUIRED.—In the case of a State which the Sec-
13 retary identifies as—

14 (i) requiring State legislation (other
15 than legislation appropriating funds) to
16 conform its regulatory program to the
17 changes made in this section, but

18 (ii) having a legislature which is not
19 scheduled to meet in 1994 in a legislative
20 session in which such legislation may be
21 considered,

22 the date specified in this paragraph is the first
23 day of the first calendar quarter beginning after
24 the close of the first legislative session of the
25 State legislature that begins on or after Janu-



1 ary 1, 1994. For purposes of the previous sen-
2 tence, in the case of a State that has a 2-year
3 legislative session, each year of such session
4 shall be deemed to be a separate regular session
5 of the State legislature.

○